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Federal Register

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DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

8 CFR Part 204

[INS No. 1401-92]

RIN 1115-AC31

Transition for Employees of Certain United States Businesses Operating in Hong Kong

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Final rule.

SUMMARY: This rule promulgates final regulations for implementation of section 124 of the Immigration Act of 1990, Public Law 101-649, by providing petition procedures to establish eligibility for immigrant visas for qualifying employees (as well as their spouses and dependent children) of certain United States businesses operating in Hong Kong. This rule is necessary to help United States companies operating in Hong Kong avoid the loss of key employees through emigration to countries other than the United States and transfers to non-United States businesses.

EFFECTIVE DATE: April 23, 1992.

FOR FURTHER INFORMATION CONTACT: Edward H. Skerrett, Senior Immigration Examiner, Adjudications Division, Immigration and Naturalization Service, 425 I Street, NW., room 7122, Washington, DC 20536, telephone (202) 514-3946.

SUPPLEMENTARY INFORMATION: On May 21, 1991, at 56 FR 23209, the Immigration and Naturalization Service published an interim rule with request for comments from interested parties by June 20, 1991.

The Service received six comments on the interim rule. All of the comments were reviewed and considered in

writing this final rule. The discussion which follows groups the comments into major subject areas, provides the Service's position on the issues, and indicates any revisions made based on the comments.

Employment in Hong Kong

Section 124 requires that the alien employee be a resident of Hong Kong and that he or she be employed in Hong Kong (and have been so employed during the 12 previous consecutive months) as an officer or supervisor or in a capacity that is managerial or executive or requires specialized knowledge. The interim rule applied this provision strictly, indicating that these two requirements must be met at the time the petition is filed with the Service.

Five commenters pointed out that some employees of United States businesses operating in Hong Kong, while still retaining Hong Kong residency, may be assigned outside of Hong Kong on a temporary basis. One of these commenters noted that section 124 does not contain a physical presence requirement to be considered to be employed in Hong Kong, while another commenter noted that a temporary assignment abroad places these employees in a no less uncertain position regarding the scheduled reversion of Hong Kong to the People's Republic of China in 1997. This latter commenter further noted that, although these employees remain residents of Hong Kong, "common business practice and legal considerations (i.e., the host countries' tax laws) often dictate that individuals on temporary assignment outside of Hong Kong must go on the payroll of the subsidiary, branch, or affiliate in the country where they are working." Another commenter asked whether a Hong Kong resident who is temporarily in the United States as a nonimmigrant temporary worker or as a visitor would qualify for the benefits of section 124. Finally, one commenter suggested that the Service allow an alien's stay(s) in the United States as a B-1 visitor for business to count toward the requirement of one year's employment in Hong Kong.

The Service recognizes that Congress did not want United States businesses to be at a competitive disadvantage with foreign businesses and governments (House Report 101-723). Consequently,

in the final rule, an alien will be found to qualify for section 124 benefits if he or she is a resident of Hong Kong and is employed in Hong Kong, except for temporary (i.e., of limited duration) absences at the request of the employer, and has been employed in Hong Kong for at least 12 consecutive months. This language mirrors language in Public Law 102-232, the "Miscellaneous and Technical Immigration and Naturalization Amendments of 1991." These amendments allow an alien who is outside of Hong Kong to qualify provided he or she had 12 consecutive months of employment in Hong Kong prior to such absence or absences.

Affiliates

One commenter urged that, effective October 1, 1991, the definition of the term "affiliate" be expanded to include international accounting firms and their affiliated consulting services. Another commenter found the definition of "affiliate" in the interim rule to be too restrictive and urged that the Service adopt a definition wherein common ownership or control of at least 50 percent of each entity would be sufficient.

Congress did not define the term "affiliate" in Public Law 101-649; therefore, in this rule the Service chose to apply the definition of "affiliate" found in 8 CFR 214.2(l)(1)(ii) as it pertains to L-1 intracompany transferees. Arguably, if Congress wanted to expand the Service's definition of "affiliate," it could have done so in the statute. Since the definition was not altered by Congress, the Service believes that the current definition comports with Congressional intent.

In section 206 of the Immigration Act of 1990 Congress provided that, in applying sections 101(a)(15)(L) and 203(b)(1)(C) of the Act, a partnership (or similar organization) that is organized outside the United States to provide accounting services should be considered to be an affiliate of the United States partnership. The Service will incorporate this provision into the final rule. This addition to the definition of "affiliate" will be effective as of October 1, 1991, the date this definition took effect in sections 101(a)(15)(L) and 203(b)(1)(C).

Gross Annual Income

One commenter suggested that all entities under the umbrella of the sponsoring United States entity be included when calculating the requirement that the United States business entity have a gross annual income of \$50 million. The language of the interim rule mirrored the statutory language in this regard. Since the requirement of the statute refers directly to the United States business entity, it follows that the \$50 million figure pertains to the United States entity along with its affiliates and subsidiaries. Therefore, no change is needed on this point.

Eligibility of Deferred Beneficiaries

Two commenters raised issues regarding continued eligibility for section 124 benefits in the case of deferred immigration beneficiaries. One commenter proposed that a beneficiary be allowed to terminate employment with the sponsoring employer and to regain eligibility if rehired by the same employer. The same commenter also proposed that a beneficiary be allowed to change from one qualifying employer to another United States employer during the period of deferral. This commenter further pointed out that an employer, after approval of the petition, should be allowed to transfer the employee within the same company to a different division, section, subsidiary, or affiliate outside of Hong Kong.

The second commenter argued that, during the time of deferred immigration, the beneficiary should be allowed to take up a nonqualifying position with the qualifying entity as long as the person assumes a qualifying position upon entry to the United States.

The legislative history of section 124 (House Report 101-723) states that: "The Committee also intends that this provision be interpreted as requiring continuing employment with the same United States business entity from the time of initial registration until the time the alien employee enters the U.S. as an immigrant." Clearly, continuation of eligibility upon termination of employment or a change to another employer were not contemplated by Congress. Therefore, this comment was not accepted.

On July 17, 1991, the Department of State published a final rule at 56 FR 32503 pertaining to documentation for section 124 immigrants. In that rule, at 22 CFR 45.5(e), the Department of State stated that a deferred beneficiary will be deemed to be continuing in a qualifying position by holding any qualifying position within the entity's

organization "regardless of geographical location." The Service has followed the Department of State in this regard and has removed the restriction of continued employment in Hong Kong from the final rule.

In supplementary information to the same final rule, the Department of State indicated that a change to a non-qualifying position during the period of deferred immigration would be illogical. The Service agrees with the Department of State in this regard and will make no change in the final rule.

Concurrent Filing

Finally, one commenter urged the Service to remove the restriction, found in the interim rule, against concurrent filing at a district office or sub-office of a petition for section 124 benefits with an application for status as a permanent resident (Form I-485). The commenter argued that if concurrent filing was not permitted, visa numbers for the current fiscal year might go unused. The Service notes that Public Law 102-232, the "Miscellaneous and Technical Immigration and Naturalization Amendments of 1991," allows for section 124 visas not made available in fiscal year 1991 or 1992 to be made available in the succeeding fiscal year. The Service therefore will retain the restriction against concurrent filing in district offices or sub-offices in that expertise in adjudicating these petitions rests with the four Service Centers. Furthermore, the Service Centers have indicated no serious backlogs of petitions for section 124 benefits.

In accordance with 5 U.S.C. 605(b), the Commissioner of Immigration and Naturalization certifies that this rule does not have a significant adverse economic impact on a substantial number of small entities. This rule is not considered to be a major rule within the meaning of section 1(b) of E.O. 12291, nor does this rule have Federalism implications warranting the preparation of a Federalism Assessment in accordance with E.O. 12612.

The information collection requirements contained in this rule have been cleared by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act. Clearance numbers for these collections are contained in 8 CFR 299.5. Display of Control Numbers.

List of Subjects in 8 CFR Part 204

Administrative practice and procedure, Aliens, Employment, Immigration, Petitions.

Accordingly, under the authority of 8 U.S.C. 1101, 1103, 1151, 1153, 1154, 1182, 1186a, 1255, and 8 CFR part 2, the

interim rule amending 8 CFR part 204 which was published at 56 FR 23209-23211 on May 21, 1991, is adopted as a final rule with the following changes:

PART 204—PETITION TO CLASSIFY ALIEN AS IMMEDIATE RELATIVE OF A UNITED STATES CITIZEN OR AS A PREFERENCE IMMIGRANT

1. The authority citation for part 204 continues to read as follows:

Authority: 8 U.S.C. 1101, 1103, 1151, 1153, 1154, 1182, 1186a, 1255; 8 CFR part 2.

§ 204.8 [Amended]

2. In § 204.8, paragraph (a) is amended in the first sentence by revising the term "Petition for Prospective Immigrant Employee" to read: "Immigrant Petition for Alien Worker."

3. In § 204.8, paragraph (b) is amended by revising the definition of "Affiliate", revising paragraph (d)(1), redesignating paragraph (d)(2) as paragraph (d)(3), and adding a new paragraph (d)(2) to read as follows:

§ 204.8 Petitions for employees of certain United States businesses operating in Hong Kong.

* * * * *

(b) * * *

Affiliate means one of two subsidiaries both of which are owned and controlled by the same parent or individual or one of two legal entities owned and controlled by the same group of individuals, each individual owning and controlling approximately the same share or proportion of each entity. Effective October 1, 1991, in the case of a partnership that is organized in the United States to provide accounting services along with managerial and consulting services and that markets its accounting services under an internationally recognized name under an agreement with a worldwide coordinating organization that is owned and controlled by the member accounting firms, a partnership (or similar organization) that is organized outside the United States to provide accounting services shall be considered to be an affiliate of the United States partnership if its markets its accounting services under the same internationally recognized name under the agreement with the worldwide coordinating organization of which the United States partnership is also a member.

* * * * *

(d) *Eligibility.* * * *

(1) Be a resident of Hong Kong who:

(i) Is employed in Hong Kong and has been employed in Hong Kong during the 12 previous consecutive months; or

(ii) Is employed outside of Hong Kong during a temporary absence (i.e., of limited duration) from Hong Kong at the request of the employer and had been employed in Hong Kong for 12 consecutive months prior to such absence(s); and

(2) Be employed as an officer or supervisor or in a capacity that is managerial or executive or involves specialized knowledge, by a qualifying business entity. A qualifying business entity is one which:

(i) Is owned and organized in the United States (or is the subsidiary or affiliate of a business owned and organized in the United States);

(ii) Employs at least 100 employees in the United States and at least 50 employees outside the United States (not necessarily all in Hong Kong); and

(iii) Has a gross annual income of at least \$50,000,000.

§ 204.8 [Amended]

4. In § 204.8, paragraph (e)(1) is amended by revising the term "of the supervisor's supervisory duties" to read "of his or her supervisory duties".

§ 204.8 [Amended]

5. In § 204.8, paragraph (g)(3) is amended in the last sentence by revising the term "or affiliate in Hong Kong will" to read: "or affiliate (regardless of geographical location) will".

Dated: March 6, 1992.

Gene McNary,

Commissioner, Immigration and Naturalization Service.

[FR Doc. 92-9527 Filed 4-22-92; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 92-NM-66-AD; Amendment 39-8226; AD 92-09-01]

Airworthiness Directives; Aerospatiale Model ATR42-200 and -300 Series Airplanes, and Model ATR72-100 and -200 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that is applicable to certain Aerospatiale Model ATR42-200 and -300 series airplanes, and Model ATR72-100 and -200 series airplanes. This action requires

the installation of a heat deflector on the rear upper cowl, and a thermal bridge between the teleflex controls and the air conditioning duct. This amendment is prompted by reports of engine and propeller control cables jamming in flight due to ice collecting on the cables. The actions specified in this AD are intended to prevent the crew's inability to increase or decrease engine power.

DATES: Effective May 8, 1992.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of May 8, 1992.

Comments for inclusion in the Rules Docket must be received on or before June 22, 1992.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM-103, Attention: Rules Docket No. 92-NM-66-AD, 1601 Lind Avenue SW., Renton, Washington 98055-4056.

The service information referenced in this AD may be obtained from Aerospatiale, 316 Route de Bayonne, 31060 Toulouse, Cedex 03, France. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington; or at the Office of the Federal Register, 1100 L Street NW., room 8401, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Mr. Gary Lium, Aerospace Engineer, Standardization Branch, ANM-113, FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington 98055-4056; telephone (206) 227-1112; fax (206) 227-1320.

SUPPLEMENTARY INFORMATION: The Direction Générale de l'Aviation Civile (DGAC), which is the airworthiness authority for France, recently notified the FAA that an unsafe condition may exist on certain Aerospatiale Model ATR42-200 and -300 series airplanes and Model ATR72-100 and -200 series airplanes. The DGAC advises that there have been several reports of engine and propeller control cables jamming in flight due to ice collecting on portions of the cables. This condition, if not corrected, could result in the crew's inability to increase or decrease engine power.

Aerospatiale has issued Service Bulletins ATR42-76-0009 (for Model ATR42-200 and -300 series airplanes) and ATR72-76-1002 (for Model ATR72-100 and -200 series airplanes), both Revision 1, both dated December 5, 1991. Both service bulletins describe procedures for installation of a heat deflector on the rear upper cowl, and a

thermal bridge between the teleflex controls and the air conditioning duct. Accomplishment of these procedures will reduce the icing risks of the engine push-pull cables. The DGAC classified these service bulletins as mandatory and issued French Airworthiness Directives 91-216-043(B)R1 (applicable to Model ATR42-200 and -300 series airplanes) and 91-217-007(B)R1 (applicable to Model ATR72-100 and -200 series airplanes) in order to assure the continued airworthiness of these airplanes in France.

This airplane model is manufactured in France and is type certificated for operation in the United States under the provisions of Section 21.29 of the Federal Aviation Regulations and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, the DGAC has kept the FAA informed of the situation described above. The FAA has examined the findings of the DGAC, reviewed all available information, and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design registered in the United States, this AD is being issued to prevent the crew's inability to increase or decrease engine power. This AD requires the installation of a heat deflector on the rear upper cowl, and a thermal bridge between the teleflex controls and the air conditioning duct. The actions are required to be accomplished in accordance with the service bulletins described previously.

Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and opportunity for prior public comment hereon are impracticable, and that good cause exists for making this amendment effective in less than 30 days.

Comments Invited

Although this action is in the form of a final rule that involves requirements affecting flight safety and, thus, was not preceded by notice and an opportunity for public comment, comments are invited on this rule. Interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified under the caption **ADDRESSES**. All communications received on or before the closing date for comments will be

considered, and this rule may be amended in light of the comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of the AD action and determining whether additional rulemaking action would be needed.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify the rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact concerned with the substance of this AD will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 92-NM-66-AD." The postcard will be date stamped and returned to the commenter.

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

The FAA has determined that this regulation is an emergency regulation and that it is not considered to be major under Executive Order 12291. It is impracticable for the agency to follow the procedures of Order 12291 with respect to this rule since the rule must be issued immediately to correct an unsafe condition in aircraft. It has been determined further that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). If it is determined that this emergency regulation otherwise would be significant under DOT Regulatory Policies and Procedures, a final regulatory evaluation will be prepared and placed in the Rules Docket. A copy of it, if filed, may be obtained from the Rules Docket at the location provided under the caption ADDRESSES.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends 14 CFR part 39 of the Federal Aviation Regulations as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

92-09-01. AEROSPATIALE: Amendment 39-8226. Docket 92-NM-66-AD.

Applicability: Model ATR42-200 and -300 series airplanes, as listed in Aerospatiale Service Bulletin ATR42-76-0009, Revision 1, dated December 5, 1991; and Model ATR72-100 and -200 series airplanes, as listed in Aerospatiale Service Bulletin ATR72-76-1002, Revision 1, dated December 5, 1991; certificated in any category.

Compliance: Required within 60 days after the effective date of this AD, unless accomplished previously.

To prevent the crew's inability to increase or decrease engine power, accomplish the following:

(a) Install a heat deflector on the rear upper cowl, and a thermal bridge between the teleflex controls and the air conditioning duct, in accordance with Aerospatiale Service Bulletin ATR42-76-0009, Revision 1, dated December 5, 1991; or Aerospatiale Service Bulletin ATR72-76-1002, Revision 1, dated December 5, 1991; as applicable.

(b) An alternative method of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Standardization Branch, ANM-113, FAA, Transport Airplane Directorate. The request shall be forwarded through an FAA Principal Maintenance Inspector, who may concur or comment and then send it to the Manager, Standardization Branch, ANM-113.

(c) Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate the airplane to a location where the requirements of this AD can be accomplished.

(d) The installations shall be done in accordance with Aerospatiale Service Bulletin ATR42-76-0009, Revision 1, dated December 5, 1991; or Aerospatiale Service Bulletin ATR72-76-1002, Revision 1, dated December 5, 1991; as applicable. These service bulletins include the following list of effective pages:

Service bulletin	Page	Revision No.	Date
ATR42-76-0009, Revision 1.	1-6, 8-12, and 15-17.	1	Dec. 5, 1991.
	7, 13-14, and 18.	Original	Apr. 11, 1991.
ATR72-76-1002, Revision 1.	1-2, 6-10, and 13-14.	1	Dec. 5, 1991.
	3-5, 11-12, and 15-16.	Original	Apr. 11, 1991.

This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Aerospatiale, 316 Route de Bayonne, 31060 Toulouse, Cedex 03, France. Copies may be inspected at the FAA, Transport Airplane Directorate, 1801 Lind Avenue SW., Renton, Washington; or at the Office of the Federal Register, 1100 L Street NW., room 8401, Washington, DC.

(e) This amendment becomes effective on May 8, 1992.

Issued in Renton, Washington, on April 2, 1992.

James V. Devany,
Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.
[FR Doc. 92-9427 Filed 4-22-92; 8:45 am]
BILLING CODE 4910-13-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[T.D. 8406]

RIN 1545-AQ24

Section 597 Transitional Rules

AGENCY: Internal Revenue Service, Treasury.

ACTION: Temporary regulation.

SUMMARY: This document contains a temporary regulation that provides a transitional rule under the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 for the tax treatment of Federal financial assistance received by certain banks and domestic building and loan associations. The temporary regulation affects payments under certain assistance agreements executed before May 10, 1989. The text of the temporary regulation set forth in this document also serves as the text of the proposed regulation cross-referenced in the notice of proposed rulemaking in the proposed

rules section of this issue of the *Federal Register*.

EFFECTIVE DATE: This temporary regulation is effective April 23, 1992; for assistance received or accrued on or after May 10, 1989 in connection with acquisitions before that date.

FOR FURTHER INFORMATION CONTACT: Bernita L. Thigpen, 202-566-3297 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

This document adds new temporary regulation § 1.597-8T to 26 CFR part 1. The temporary regulation added by this document will remain in effect until superseded by later temporary or final regulations relating to these matters.

Section 597 was substantially amended by section 1401(a)(3) of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (Pub. L. 101-73) ("FIRREA"). Prior to FIRREA, under section 597(a) a domestic building and loan association or a bank could exclude from gross income certain assistance payments made by either the Federal Savings and Loan Insurance Corporation or the Federal Deposit Insurance Corporation. FIRREA repealed this rule. FIRREA generally requires that Federal financial assistance be accounted for as gross income, as described more fully in notice 89-102, 1989-2 C.B. 436.

Section 1401(c)(3) of FIRREA provides that section 1401(a)(3) applies to Federal financial assistance received or accrued on or after May 10, 1989, unless the payment is pursuant to an acquisition that occurred prior to May 10, 1989. This temporary regulation explains how the effective date provision applies to situations in which Federal financial assistance is continuing to be paid for an acquisition that occurred prior to May 10, 1989. This temporary regulation also explains the consequences when a negotiated payment is received to terminate the right to future payments under an assistance agreement.

Explanation of Provisions

Section 1.597-8T(b)(1) of the temporary regulation sets forth the general rule that the tax consequences of assistance payments received or accrued on or after May 10, 1989, pursuant to an acquisition of a domestic building and loan association or a bank before May 10, 1989, are governed by the applicable pre-FIRREA version of section 597. In order for the general rule to apply, the payments must be made pursuant to an assistance agreement that was executed before May 10, 1989, and must be paid to a party to the

agreement or such other party as the Commissioner may designate. In addition, the payments must otherwise be subject to a pre-FIRREA version of section 597. For example, this regulation does not apply to assistance paid in connection with an acquisition of a bank on or before November 10, 1988, because section 597 did not apply to banks until after that date.

Under § 1.597-8T(b)(2) of the temporary regulation, if the parties agree to terminate a pre-May 10, 1989 assistance agreement in return for a lump sum or other payment that represents a prepayment of fixed or contingent obligations under the agreement, FIRREA will not apply to the payment if the payment is made to a party to the pre-May 10, 1989 assistance agreement (or such other party as the Commissioner may designate) and the assistance to which the payment relates would have qualified for pre-FIRREA treatment. In this circumstance, the lump sum or other payment is considered made pursuant to a pre-May 10, 1989 acquisition and assistance agreement, and the tax consequences of the payment are governed by the applicable pre-FIRREA version of section 597. For example, if section 597(c) prior to its amendment by FIRREA requires a taxpayer to reduce its tax attributes by 50 percent of an amount paid under an assistance agreement, the taxpayer must likewise reduce its tax attributes by 50 percent of the amount of any lump sum or other payment that represents a prepayment of obligations under the assistance agreement. Although the lump sum or other payment may result from a new agreement, the tax exempt character of the payment will not change to the extent new assistance is not provided. To the extent the payment represents compensation for a right that was not expressly provided by the original assistance agreement, the payment will be treated as new assistance subject to the provisions of FIRREA.

Under § 1.597-8T(e), this temporary regulation is effective April 23, 1992; for assistance received or accrued on or after May 10, 1989 in connection with acquisitions before that date.

Need for Temporary Regulations

The provisions contained in this Treasury decision are needed immediately to provide guidance to the public with respect to current payments of Federal financial assistance for acquisitions of insolvent banks and domestic building and loan associations that occurred prior to May 10, 1989. Therefore, it is found impracticable and contrary to the public interest to issue

this Treasury decision with prior notice under section 553(b) of title 5 of the United States Code.

Special Analyses

It has been determined that these rules are not major rules as defined in Executive Order 12291. Therefore, a Regulatory Impact Analysis is not required. It has also been determined that section 553(b) of the Administrative Procedures Act (5 U.S.C. chapter 5) and the Regulatory Flexibility Act (5 U.S.C. chapter 6) do not apply to these regulations, and, therefore, a final Regulatory Flexibility Analysis is not required. Pursuant to section 7805(f) of the Internal Revenue Code, the notice of proposed rulemaking for the regulation was submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on their impact on small business.

Drafting Information

The principal author of this regulation is Bernita L. Thigpen, Office of the Assistant Chief Counsel (Financial Institutions and Products), Internal Revenue Service. However, other personnel from the Service and Treasury Department participated in its development.

List of Subjects in 26 CFR 1.591-1 Through 1.601-1

Banks, Banking, Income taxes, Reporting and recordkeeping requirements.

Adoption of Amendments to the Regulations

Accordingly, 26 CFR part 1 is amended as follows:

PART 1—INCOME TAX; TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1953

Paragraph 1. The authority for part 1 is amended by adding the following citation:

Authority: Sec. 7805, 68A Stat. 917; 26 U.S.C. 7805 * * * § 1.597-8T also issued under 26 U.S.C. 597.

Par. 2. A new § 1.597-8T is added to read as follows:

§ 1.597-8T Transitional rules for Federal financial assistance (temporary).

(a) *Scope.* This section provides transitional rules for the tax consequences of Federal financial assistance received or accrued on or after May 10, 1989, if the assistance payment relates to an acquisition that occurred before that date.

(b) *Transitional rules.* The tax consequences of any payment of Federal

financial assistance received or accrued on or after May 10, 1989, are governed by the applicable provisions of section 597 that were in effect prior to the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 ("FIRREA") if either—

(1) The payment—

(i) Is pursuant to an acquisition of a bank or domestic building and loan association before May 10, 1989,

(ii) Is provided pursuant to an assistance agreement executed before May 10, 1989,

(iii) Is provided to a party to that agreement or to such other party as the Commissioner may determine appropriate by letter ruling or other written guidance, and

(iv) Would, if provided before May 10, 1989, have been governed by applicable provisions of section 597 that were in effect prior to FIRREA; or

(2) The payment—

(i) Represents a prepayment of (or a payment in lieu of) a fixed or contingent right to Federal financial assistance that would have satisfied the conditions of paragraphs (b)(1)(i), (ii) and (iv) of this section, and

(ii) Is provided to a party described in paragraph (b)(1)(iii) of this section

(c) *Definition of Federal financial assistance.* Federal financial assistance for purposes of this section has the meaning prescribed by section 597(c) as amended by FIRREA.

(d) *Examples.* The following examples illustrate the provisions of this section:

Example 1. X corporation acquired Y, a domestic building and loan association on September 10, 1988. Pursuant to a written agreement executed at the time of the acquisition, Y received Federal financial assistance that included a note bearing a market rate of interest, the right to future payments if certain assets were sold at a loss, and the right to future payments if the income produced by certain assets was less than an agreed upon amount. On December 1, 1991, an agreement was executed in which Y relinquished its rights to Federal financial assistance under the September 10, 1988 agreement in return for a lump sum payment. The lump sum payment represented a prepayment of the principal and accrued but unpaid interest for the note, and the rights to the contingent future loss and income payments. The entire prepayment is excluded from the income of Y because it is a prepayment of Federal financial assistance and the assistance (i) would have been provided pursuant to an acquisition that occurred before May 10, 1989, would have been provided pursuant to an assistance agreement executed before May 10, 1989, and would, if it had been provided prior to May 10, 1989, have been governed by a pre-FIRREA version of section 597; and (ii) the prepayment is paid to a party to the assistance agreement.

Example 2. The facts are the same as those in *Example 1*, except that the note bears an above market rate of interest and part of the lump sum represents a premium payment for the note. The portion of the lump sum allocable to the premium payment is also excluded from the income of Y because the payment represents the present value of the right to future Federal financial assistance in the form of interest.

Example 3. The facts are the same as those in *Example 1*, except that a portion of the lump sum payment represents compensation for additional expenses Y may incur in the future because of termination of the September 10, 1988 agreement. The portion of the lump sum payment allocable to the compensation for additional expenses must be included in the income of Y because it is not a prepayment of Federal financial assistance provided for by a written agreement entered into prior to May 10, 1989.

Example 4. The facts are the same as those in *Example 1*, except that instead of a new assistance agreement, the September 10, 1988 assistance agreement was modified on December 1, 1991. The modified agreement provided new Federal financial assistance in addition to the amounts previously agreed to. None of the new Federal financial assistance is governed by this regulation because the new assistance was not provided for by a written agreement entered into prior to May 10, 1989. The modification does not, however, affect the tax treatment of assistance provided for by the agreement prior to its modification.

(e) *Effective Date.* This section is effective April 23, 1992 for assistance received or accrued on or after May 10, 1989 in connection with acquisitions before that date.

David G. Blattner,

Acting Commissioner of Internal Revenue.

Approved: January 21, 1992.

Michael J. Graetz,

Acting Assistant Secretary of the Treasury.

[FR Doc. 92-8636 Filed 4-22-92; 8:45 am]

BILLING CODE 4830-01-M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 904

Arkansas Permanent Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Final rule; approval of amendment.

SUMMARY: The Director of OSM is approving a proposed amendment submitted by the State of Arkansas as a modification to its permanent regulatory program (hereinafter referred to as the

Arkansas program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The amendment consists of revisions to Arkansas' regulations pertaining to revegetation success. The amendment revises Arkansas' regulations to be consistent with the corresponding Federal regulations.

EFFECTIVE DATE: April 23, 1992.

FOR FURTHER INFORMATION CONTACT: James H. Moncrief, Telephone: (918) 581-6430.

SUPPLEMENTARY INFORMATION:

I. Background

On November 21, 1980, the Secretary of the Interior conditionally approved the Arkansas program. Information on the general background, modifications and amendments to the proposed permanent program submission, as well as the Secretary's findings, the disposition of comments, and detailed explanation of the conditions of approval of the Arkansas program was published in the November 21, 1980, *Federal Register* (45 FR 77003). Subsequent actions concerning the Arkansas program and program amendments can be found at 30 CFR 904.12 and 904.15.

II. Submission of Program Amendment

On October 11, 1991, Arkansas, at its own initiative, submitted to OSM a proposed amendment to its approved program [administrative record No. AR-466]. Arkansas proposed revisions to the regulations at Arkansas Surface Coal Mining and Reclamation Code (ASCMRC) 816.116(c)(2) concerning which of the growing seasons of the 5-year liability period may be used to measure revegetation success for grazing land, pasture land, and cropland.

OSM announced receipt of the proposed amendment in a notice in the October 29, 1991, *Federal Register* (56 FR 55642; administrative record No. AR-474). In that notice, OSM opened a public comment period and provided an opportunity for a public hearing on the substantive adequacy of the revisions to the proposed amendment. The public comment period closed on November 29, 1991.

III. Director's Findings

After a thorough review pursuant to SMCRA and the Federal regulations at 30 CFR 732.15 and 732.17, the Director finds, as discussed below, that the proposed amendment as submitted by Arkansas on October 11, 1991, is no less stringent than SMCRA and no less

effective than the corresponding Federal regulations.

Revisions to Arkansas' Regulations That Are Substantively Identical to the Corresponding Federal Regulations

Arkansas proposed revisions to ASCMRC 816.116(c)(2) concerning which of the growing seasons of the 5-year liability period may be used to measure revegetation success. Arkansas deleted language that restricts the application of the vegetative standards for success in areas of more than 26.0 inches of average annual rainfall to the last 2 years of the responsibility period and inserted language that applies the vegetative standards to any 2 years of the responsibility period except for the first year. Arkansas also revised ASCMRC 816.116(c)(2) so that it applies only to the postmining land uses of grazing land, pasture land, and cropland.

Revised ASCMRC 816.116(c)(2) is substantively identical to the corresponding Federal regulation at 30 CFR 816.116(c)(2). The Director (1) finds that proposed ASCMRC 816.116(c)(2) is no less effective than the corresponding Federal regulations at 30 CFR 816.116(c)(2), and (2) approves the proposed regulation.

IV. Public and Agency Comments

1. Public Comments

The Director solicited public comments on the proposed amendment and provided opportunity for a public hearing. No comments were received. Because no one requested an opportunity to testify at a public hearing, no hearing was held.

2. Agency Comments

Pursuant to 30 CFR 732.17(h)(11)(i) and by letters dated October 23, 1991, OSM solicited comments from various Federal and State agencies with an actual or potential interest in the Arkansas program (administrative record No. AR-468).

By letter dated November 4, 1991, the Bureau of Land Management responded that the proposed amendment would not unduly impact its management responsibilities (administrative record No. AR-471).

By letter dated November 7, 1991, the Bureau of Mines responded that it had no comments on the proposed amendment (administrative record No. AR-473).

By letter dated November 18, 1991, the Soil Conservation Service responded that it agreed with the amendment as proposed (administrative record No. AR-477).

3. Environmental Protection Agency (EPA) Concurrence

Pursuant to 30 CFR 732.17(h)(11)(ii), all amendments that relate to air or water quality standards promulgated under the authority of the Clean Water Act (33 U.S.C. 1251 *et seq.*) or the Clean Air Act (42 U.S.C. 7401 *et seq.*) are to be provided to the Administrator of EPA for written concurrence.

None of the changes that Arkansas proposed to its rules pertain to air or water quality standards. Nevertheless, OSM requested EPA's concurrence on the proposed amendment (administrative record No. AR-468). EPA did not respond to OSM's request.

4. State Historic Preservation Officer (SHPO) and Advisory Council on Historic Preservation (ACHP) Comments

Pursuant to 30 CFR 732.17(h)(4), all amendments that may have an effect on historic properties are to be provided to the SHPO and ACHP for comment. OSM solicited comments from these offices. Neither the SHPO nor ACHP responded to OSM's request for comments.

V. Director's Decision

Based on the above findings, the Director approves the proposed amendment as submitted by Arkansas on October 11, 1991. The Director approves the proposed regulation with the provision that it be fully promulgated in identical form to the rules submitted to and reviewed by OSM and the public.

The Federal regulations at 30 CFR part 904 codifying decisions concerning the Arkansas program are being amended to implement this decision. This final rule is being made effective immediately to expedite the State program amendment process and to encourage States to bring their programs into conformity with the Federal standards without undue delay.

VI. Procedural Requirements

1. Compliance with the National Environmental Policy Act

Pursuant to section 702(d) of SMCRA, 30 U.S.C. 1292(d), no environmental impact statement need be prepared on this rulemaking.

2. Executive Order No. 12291 and the Regulatory Flexibility Act

On July 12, 1984, the Office of Management and Budget (OMB) granted OSM an exemption from sections 3, 4, 7, and 8 of Executive Order 12291 for actions directly related to approval or conditional approval of a State regulatory program. Accordingly, this action is exempt from preparation of a

Regulatory Impact Analysis and regulatory review by OMB.

The Department of the Interior has determined that this rule will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). This rule will not impose any new requirements; rather, it will ensure that existing requirements established by SMCRA and the Federal regulations will be met by the State.

3. Executive Order 12778

This rule has been reviewed under the principles set forth in section 2 of E.O. 12778 (56 FR 55195, October 5, 1991) on Civil Justice Reform. The Department of the Interior has determined, to the extent allowed by law, that this rule meets the applicable standards of sections 2(a) and 2(b) of E.O. 12778. Under SMCRA section 405 and 30 CFR 884 and section 503(a) and 30 CFR 732.15 and 732.17(h)(10), the agency decision on State program submittals must be based solely on a determination of whether the submittal is consistent with SMCRA and the Federal regulations. The only decision allowed under the law is approval, disapproval, or conditional approval of State program amendments.

4. Paperwork Reduction Act

This rule does not contain information collection requirements which require approval by OMB under 44 U.S.C. 3507.

List of Subjects in 30 CFR Part 904

Intergovernmental relations, Surface mining, Underground mining.

Dated: April 3, 1992.

Raymond L. Lowrie,
Assistant Director, Western Support Center.

For the reasons set out in the preamble, title 30, Chapter VII, subchapter T, of the Code of Federal Regulations is amended as set forth below:

PART 904—ARKANSAS

1. The authority citation for part 904 continues to read as follows:

Authority: 30 U.S.C. 1201 *et seq.*

2. Section 904.15 is amended by adding paragraph (j) as follows:

§ 904.15 Approval of amendments to State regulatory program.

(j) The revision to the following section of the Arkansas Surface Mining and Reclamation Code (ASCMRC), as submitted to OSM by Arkansas on October 11, 1991, is approved effective April 23, 1992, ASCMRC 816.116(c)(2).

concerning which of the growing seasons of the 5-year liability period may be used to measure revegetation success for grazing land, pasture land, and cropland.

[FR Doc. 92-9470 Filed 4-22-92; 8:45 am]
BILLING CODE 4310-05-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 25

[FCC 92-95]

Permissible Scope of Services Provided by U.S. Licensed Separate International Satellite Systems

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document implements the modified criteria established by the Executive Branch with respect to the scope of permissible services that may be provided over U.S. licensed international communications satellite systems separate from the International Telecommunications Satellite Organization (INTELSAT). By letter dated November 27, 1991, the Executive Branch (the Departments of Commerce and State) notified the Federal Communications Commission of the results of its review of limitations on the provision of service by separate international satellite systems. The Executive Branch established a goal of complete elimination of the public switched network (PSN) restriction by January 1991. As an immediate measure, the Executive Branch established modified criteria which would permit the interconnection of a customer's private line with the PSN. As a result of the modified criteria, separate international satellite systems shall be permitted to provide through the sale or lease of transponders or space segment capacity: (1) All services not interconnected with the PSN (including private line services and video and audio transmission services; (2) emergency restoration services; (3) up to

100 64-kilobit-per-second equivalent circuits interconnected with the PSN for the provision of switched international telecommunications services; and (4) interconnected private line circuits. Each separate satellite system licensee shall file an application to modify its license in order to provide private line circuits interconnected with the PSN.

In view of the goal of the Executive Branch to eliminate the PSN restriction by January 1997, the Order adopts a sunset date of January 1, 1997 for complete elimination of the PSN restriction. The sunset date is subject to possible extension by further action of the Commission or upon a request by the Executive Branch.

EFFECTIVE DATE: April 23, 1992.

FOR FURTHER INFORMATION CONTACT: John M. Coles, Common Carrier Bureau, (202) 632-7265, or James L. Ball, Office of International Communications, (202) 632-0935.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission Order adopted March 12, 1992 and released April 8, 1992. The full text of the Commission decision is available for inspection and copying during normal business hours in the FCC Office of Public Affairs (Room 202), 1919 M Street NW., Washington, DC 20554. The complete text of this decision may also be purchased from the Commission's contractor, Downtown Copy Center, (202) 452-1422, 1114 21st Street NW., Washington, DC 20036.

Ordering Clauses

This Order is issued pursuant to authority contained in section 4(i) and 303(r) of the Communications Act of 1934, as amended (47 U.S.C. 154(i), and 303(r)) and section 201(c) of the Communications Satellite Act of 1962, as amended, (47 U.S.C. 721(c)).

It is Ordered, That this Order is adopted, to be effective upon publication in the Federal Register. Notice and comment procedures are not required here and the effective date provision of the Administrative Procedure Act do not apply to this Order which relieves a restriction, 5 U.S.C. §§ 553(d)(1), and includes definitions

that are in the nature of an interpretive rule, 5 U.S.C. § 553(d)(2).

It is Further Ordered, That part 25 of the Commission's Rules, 47 CFR Part 25, is amended as set forth below, effective upon publication in the Federal Register.

It is Further Ordered, That the Chief, Common Carrier Bureau shall, upon specific request of each licensee make whatever changes in authorizations issued to separate satellite systems (and associated earth stations) are necessary to implement this Order.

List of Subjects in 47 CFR Part 25

Satellites.

Federal Communications Commission.

Donna R. Searcy,
Secretary.

Rule Changes

Title 47 of the Code of Federal Regulations, part 25, is amended as follows:

1. The Authority Citation for part 25 continues to read as follows:

Authority: Sections 101-404, 76 Stat. 419-427; 47 U.S.C. 701-744, Sec. 4, 48 Stat. 1066, as amended; 47 U.S.C. 154. Interprets or applies sec. 303, 48 Stat. 1082, as amended; 47 U.S.C. 303.

2. Section 25.114 is amended by revising paragraph (c)(24) to read as follows:

§ 25.114 Applications for space station authorizations.

* * * * *

(c) * * *

(24) Applications for international fixed-satellite authorizations shall also provide all information necessary to comply with the policies and procedures set forth in Establishing of Satellite Systems Providing International Communications, 50 FR 42266 (October 18, 1985), 101 FCC 2d 1046 (1985), as modified by Permissible Services of U.S. license International Communications Satellite Systems, Order, FCC 92-95 released April 8, 1992.

* * * * *

[FR Doc. 92-9503 Filed 4-22-92; 8:45 am]

BILLING CODE 6712-01-M

Proposed Rules

Federal Register

Vol. 57, No. 79

Thursday, April 23, 1992

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 92-NM-39-AD]

Airworthiness Directives; Fokker Model F28 Mark 0100 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes the adoption of a new airworthiness directive (AD) that is applicable to certain Fokker Model F28 Mark 0100 series airplanes. This proposal would require removing currently installed engine fire detection wires and replacing them with ones that are fire resistant. This proposal is prompted by the discovery, during a design review, of incorrect insulation installed on the wiring. The actions specified by the proposed AD are intended to prevent wire burnthrough or meltdown that could render the fire detection system ineffective in detecting fire in the engine.

DATES: Comments must be received by June 9, 1992.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transportation Airplane Directorate, ANM-103, Attention: Rules Docket No. 92-NM-39-AD, 1601 Lind Avenue SW., Renton, Washington 98055-4056. Comments may be inspected at this location between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from Fokker Aircraft USA, Inc., 1199 North Fairfax Street, Alexandria, Virginia 22314. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Mr. Mark Quam, Standardization Branch, ANM-113, FAA, Northwest Mountain Region, Transport Airplane

Directorate, 1601 Lind Avenue SW., Renton, Washington 98055-4056; telephone (206) 227-2145; fax (206) 227-1320.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 92-NM-39-AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM-103, Attention: Rules Docket No. 92-NM-39-AD, 1601 Lind Avenue SW., Renton, Washington 98055-4056.

Discussion

The Rijksluchtvaartdienst (RLD), which is the airworthiness authority for the Netherlands, recently notified the FAA that an unsafe condition may exist on certain Fokker Model F28 Mark 0100 series airplanes. The RLD advises that a recent design review revealed that some of the wires currently installed in the engine fire detection and warning system on certain Fokker Model F28 Mark 0100 series airplanes are not fire

resistant. This condition, if not corrected, could cause burnthrough or meltdown of the wire installation, and, if the wiring shorted, could render the fire detection system ineffective in detecting fire in the engine.

Fokker has issued Fokker 100 Service Bulletin SBF100-28-004, dated August 23, 1991, that describes procedures for removal of wires currently installed in the engine fire detection and warning system, and replacement with wires that are fire resistant. The RLD classified this service bulletin as mandatory and issued Netherlands Airworthiness Directive BLA 91-237 in order to assure the continued airworthiness of these airplanes in The Netherlands.

This airplane model is manufactured in The Netherlands and is type certified for operation in the United States under the provisions of § 21.29 of the Federal Aviation Regulations and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, the RLD has kept the FAA informed of the situation described above. The FAA has examined the findings of the RLD, reviewed all available information, and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design registered in the United States, the proposed AD would require replacing existing engine fire detection wires with ones that are fire resistant. The actions would be required to be accomplished in accordance with the service bulletin described previously.

The FAA estimates that 47 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 5.5 work hours per airplane to accomplish the proposed actions, and that the average labor rate is \$55 per work hour. Required parts would cost approximately \$700 per airplane. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be \$47,117 or \$1002 per airplane.

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order

12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this proposed regulation (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption "ADDRESSES."

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend 14 CFR part 39 of the Federal Aviation Regulations as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

Fokker: Docket 92-NM-39-AD.

Applicability: Model F28 Mark 0100 series airplanes, serial numbers 11340 through 11348, certificated in any category.

Compliance: Required as indicated, unless accomplished previously.

To prevent wire burnthrough or meltdown, that could render the fire detection system ineffective in detecting fire in the engine, accomplish the following:

(a) Within 30 days after the effective date of this AD, remove existing engine fire detection wires and replace them with fire resistant ones, in accordance with Fokker Service Bulletin SBF100-26-004, dated August 23, 1991.

(b) An alternative method of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Standardization Branch, FAA, Transport Airplane Directorate. The request shall be forwarded through an FAA Principal Maintenance Inspector, who may concur or comment and then send it to the Manager, Standardization Branch.

(c) Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate the airplane to a location where the requirements of this AD can be accomplished.

Issued in Renton, Washington, on April 9, 1992.

D.L. Riggin,

Acting Manager, Transport Airplane Directorate Aircraft Certification Service.

[FR Doc. 92-9507 Filed 4-22-92; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 39

[Docket No. 92-NM-47-AD]

Airworthiness Directives; Fokker Model F28 Mark 0100 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes the adoption of a new airworthiness directive (AD) that is applicable to certain Fokker Model Mark 0100 series airplanes. This proposal would require removing the normal maximum (second) detent of the reverse thrust control and installing an improved unit. This proposal is prompted by reports indicating that the override force for the normal maximum detent of the reverse thrust control is too low. This condition, if not corrected, can result in inadvertent selection of too high a thrust reverse level, which could lead to fatigue damage and subsequent reduced structural capability of the horizontal stabilizer attachment.

DATES: Comments must be received by June 9, 1992.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM-103, Attention: Rules Docket No. 92-NM-47-AD, 1601 Lind Avenue SW., Renton, Washington 98055-4056. Comments may be inspected at this location between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from Fokker Aircraft USA, Inc., 1199 North Fairfax Street, Alexandria, Virginia 22314. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Mr. Mark Quam, Standardization Branch, ANM-113, FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington 98055-4056;

telephone (206) 227-2145; fax (206) 227-1320.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 92-NM-47-AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM-103, Attention: Rules Docket No. 92-NM-47-AD, 1601 Lind Avenue SW., Renton, Washington 98055-4056.

Discussion

The Rijksluchtvaartdienst (RLD), which is the airworthiness authority for The Netherlands, recently notified the FAA that an unsafe condition may exist on certain Fokker Model F28 Mark 0100 series airplanes. The RLD advises that the normal maximum (second) detent for reverse thrust control has a low override force. This could result in the accidental selection of too high of a reverse thrust level, potentially resulting in the decrease of the structural life of the horizontal stabilizer. This condition, if not corrected, could lead to fatigue damage and subsequent reduced structural capability of the horizontal stabilizer attachment.

Fokker has issued Service Bulletin SBF100-76-008, dated May 8, 1991, which describes procedures for removing the normal maximum (second) detent for reverse thrust control, and installation of a new detent. This modified detent will increase the override force, thus eliminating the chance of inadvertent selection of too high a reverse thrust level. The RLD classified this service bulletin as mandatory and issued Netherlands Airworthiness Directive BLA 91-042 in order to assure the continued airworthiness of these airplanes in The Netherlands.

This airplane model is manufactured in The Netherlands and is type certificated for operation in the United States under the provisions of § 21.29 of the Federal Aviation Regulations and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, the RLD has kept the FAA informed of the situation described above. The FAA has examined the findings of the RLD, reviewed all available information, and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design registered in the United States, the proposed AD would require removing the normal maximum (second) detent and installing an improved unit. The actions would be required to be accomplished in accordance with the service bulletin described previously.

The FAA estimates that 20 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 8 work hours per airplane to accomplish the proposed actions, and that the average labor rate is \$55 per work hour. Required parts would cost approximately \$230 per airplane. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be \$13,400 or \$670 per airplane.

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this proposed regulation (1) is not a "major rule" under Executive

Order 12291; (2) is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption "ADDRESSES."

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend 14 CFR part 39 of the Federal Aviation Regulations as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g); and 14 CFR 11.89.

§ 39.12 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

Fokker: Docket 92-NM-47-AD.

Applicability: Model F28 Mark 0100 series airplanes; serial numbers 11244 through 11308, 11310, and 11312 through 11314; certificated in any category.

Compliance: Required as indicated, unless accomplished previously.

To prevent fatigue damage and subsequent reduced structural capability of the horizontal stabilizer attachment, accomplish the following:

(a) Within 7 months after the effective date of this AD, remove the normal maximum (second) detent for the reverse thrust control and install a modified detent, in accordance with Fokker Service Bulletin SBF100-76-008, dated May 8, 1991.

(b) An alternative method of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Standardization Branch, FAA, Transport Airplane Directorate. The request shall be forwarded through an FAA Principal Maintenance Inspector, who may concur or comment and then send it to the Manager, Standardization Branch.

(c) Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate the airplane to a location where the requirements of this AD can be accomplished.

Issued in Renton, Washington, on April 9, 1992.

D.L. Riggins,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 92-9509 Filed 4-22-92; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 39

[Docket No. 92-NM-42-AD]

Airworthiness Directives; Fokker Model F28 Mark 0100 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes the adoption of a new airworthiness directive (AD) that is applicable to certain Fokker Model F28 Mark 0100 series airplane. This proposal would require modification of the passenger address (PA) system in the aft passenger compartment. This proposal is prompted by system evaluation test results indicating that messages delivered over the PA system from the forward passenger compartment are not sufficiently audible in the aft passenger compartment. The actions specified by the proposed AD are intended to prevent inaudible communications between the forward and aft passenger compartment, a situation that could hamper emergency evacuation.

DATES: Comments must be received by June 9, 1992.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM-103, Attention: Rules Docket No. 92-NM-42-AD, 1601 Lind Avenue SW., Renton, Washington 98055-4056. Comments may be inspected at this location between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from Fokker Aircraft USA, Inc., 1199 North Fairfax Street, Alexandria, Virginia 22314. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT:

Mr. Mark Quam, Standardization Branch, ANM-113, FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington 98055-4056; telephone (206) 227-2145; fax (206) 227-1320.

SUPPLEMENTARY INFORMATION:**Comments Invited**

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to docket Number 92-NM-42-AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM-103, Attention: Rules Docket No. 92-NM-42-AD, 1601 Lind Avenue SW., Renton, Washington 98055-4056

Discussion

The Rijksluchtvaartdienst (RLD), which is the airworthiness authority for The Netherlands, recently notified the FAA that an unsafe condition may exist on certain Fokker Model F28 Mark 0100 series airplanes. The RLD advises that system evaluation test results indicate that messages delivered over the passenger address (PA) system from the forward passenger compartment are not sufficiently audible in the aft passenger compartment. During an emergency evacuation, evacuation commands given from the forward passenger compartment may not be sufficiently audible in the aft passenger compartment, potentially hampering coordinated passenger evacuation.

Fokker has issued Service Bulletin SBF100-23-017, dated July 1, 1991, that describes procedures for modifying the

passenger address system in the aft passenger compartment. The procedures involve modifying the electrical wiring and installing an additional speaker in the aft passenger compartment. The RLD classified this service bulletin as mandatory and issued Netherlands Airworthiness Directive BLA 91-071 in order to assure the continued airworthiness of these airplanes in The Netherlands.

This airplane model is manufactured in The Netherlands and is type certificated for operation in the United States under the provisions of § 21.29 of the Federal Aviation Regulations and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, the RLD has kept the FAA informed of the situation described above. The FAA has examined the findings of the RLD, reviewed all available information, and determined that AD action is necessary for product of this type design that are certificated for operation in the United States.

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design registered in the United States, the proposed AD would require modification of the PA system in the aft passenger compartment. The actions would be required to be accomplished in accordance with the service bulletin described previously.

The FAA estimates that 27 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 14 work hours per airplane to accomplish the proposed actions, and that the average labor rate is \$55 per work hour. Required parts would cost approximately \$2,057 per airplane. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be \$76,329 or \$2,827 per airplane.

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this proposed regulation (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact,

positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption "ADDRESSES."

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation Safety, Safety

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend 14 CFR part 39 of the Federal Aviation Regulations as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The Authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g); and 14 CFR 11.89.

§ 39.13 Amended

2. Section 39.13 is amended by adding the following new airworthiness directive:

Fokker: Docket 92-NM-42-AD.

Applicability: Model F28 Mark 0100 series airplanes, serial numbers 11244 through 11339, inclusive, certificated in any category.

Compliance: Required as indicated, unless accomplished previously.

To prevent inaudible communications between the forward and aft passenger compartment, which could potentially hamper emergency evacuation procedures, accomplish the following:

(a) Within 6 months after the effective date of this AD, modify the passenger address system in accordance with Fokker Service Bulletin SBF100-23-017, dated July 1, 1991.

(b) An alternative method of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Standardization Branch, FAA, Transport Airplane Directorate. The request shall be forwarded through an FAA Principal Maintenance Inspector, who may concur or comment and then send it to the Manager, Standardization Branch.

(c) Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate the airplane to a location where the requirements of this AD can be accomplished.

Issued in Renton, Washington, on April 9, 1992.

D.L. Riggins,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 92-9508 Filed 4-22-92; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF LABOR**Employment and Training
Administration**

20 CFR Part 660

RIN 1205-AA92

**Clean Air Transition Assistance
Program****AGENCY:** Employment and Training
Administration, Labor.**ACTION:** Proposed rule; extension of
comment period.

SUMMARY: This document extends the period for filing comments regarding a proposed rule intended to implement certain provisions of the Clean Air Act Amendments of 1990 (Act). The Act authorizes the establishment of a Clean Air Employment Transition Assistance Program as part of Title III of the Job Training Partnership Act (JTPA). This action is taken to permit additional comment from interested parties.

DATES: Comments shall be received on or before May 14, 1992.

ADDRESSES: Written comments shall be mailed to the Assistant Secretary for Employment and Training, Department of Labor, Room N-4703, 200 Constitution Avenue, NW., Washington, DC 20210, attention: Mr. Robert N. Colombo, Director, Office of Worker Retraining and Adjustment Programs.

FOR FURTHER INFORMATION CONTACT: Mr. Robert N. Colombo, Director, Office of Worker Retraining and Adjustment Programs, Employment and Training Administration, U.S. Department of Labor, room N-4469, 200 Constitution Avenue, NW., Washington, DC 20210, telephone: (202) 535-0577 (this is not a toll-free number).

SUPPLEMENTARY INFORMATION: In the Federal Register of March 24, 1992 (57 FR 10232), the Department of Labor published a proposed rule to implement Job Training Partnership Act (JTPA) section 326 (29 U.S.C. 1662e), which authorizes the establishment of a Clean Air Employment Transition Assistance Program.

The Department believes that it is desirable to extend the comment period for all interested persons. Therefore, the comment period for the proposed rule, 20 CFR part 660, is extended to May 14, 1992.

Signed at Washington, DC, this 17th day of April, 1992.

Roberts T. Jones,
Assistant Secretary of Labor.

[FR Doc. 92-0518 Filed 4-22-92; 8:45 am]

BILLING CODE 4510-30-M

DEPARTMENT OF THE TREASURY**Internal Revenue Service**

26 CFR Part 1

[FI-46-89; FI-105-91]

RIN 1545-AN71; 1545-AQ26

**Treatment of Acquisition of Certain
Financial Institutions; Certain Tax
Consequences of Federal Financial
Assistance to Financial Institutions;
Section 597 Transitional Rules;
Hearing****AGENCY:** Internal Revenue Service,
Treasury.**ACTION:** Notice of public hearing on
proposed regulations.

SUMMARY: This document provides notice of a public hearing on proposed regulations relating to Federal financial assistance, as defined in section 597(c), that is received by a financially troubled bank or thrift institution, or in connection with the acquisition of a financially troubled bank or thrift institution; and, proposed regulations that provide a transitional rule under the Financial Institutions Reform, Recovery and Enforcement Act of 1989 for the tax treatment of Federal financial assistance received by certain banks and domestic building and loan associations.

DATES: The public hearing will be held on Friday, July 17, 1992, beginning at 10 a.m. Requests to speak and outlines of oral comments must be received by Friday, June 26, 1992.

ADDRESSES: The public hearing will be held in the Internal Revenue Service Auditorium, Seventh Floor, 7400 Corridor, Internal Revenue Building, 1111 Constitution Avenue, NW., Washington, DC. The requests to speak and outlines of oral comments should be submitted to: Internal Revenue Service, P.O. Box 7604, Ben Franklin Station, Attn: CC: CORP:T:R, (FI-46-89; and/or FI-105-91), room 5228, Washington, DC 20044.

FOR FURTHER INFORMATION CONTACT: Bob Boyer of the Regulations Unit, Assistant Chief Counsel (Corporate), 202-377-9231, (not a toll-free number).

SUPPLEMENTARY INFORMATION: The subject of the public hearing is proposed regulations that provide guidance for banks and domestic building and loan associations ("Institutions") and their affiliates in connection with receipt of Federal financial assistance ("FFA"), as defined in section 597(c); and proposed regulations that add a new temporary regulation § 1.597-8T to part 1 of title 26 of the Code of Federal Regulations

(CFR). These proposed regulations appear in the proposed rules section of this issue of the Federal Register.

The rules of § 601.601(a)(3) of the "Statement of Procedural Rules" (26 CFR part 601) shall apply with respect to the public hearing. Persons who have submitted written comments within the time prescribed in the notice of proposed rulemaking and who also desire to present oral comments at the hearing on the proposed regulations should submit not later than Friday, June 26, 1992, an outline of the oral comments/testimony to be presented at the hearing and the time they wish to devote to each subject.

Each speaker (or group of speakers representing a single entity) will be limited to 10 minutes for an oral presentation exclusive of the time consumed by the questions from the panel for government and answer to these questions.

Because of controlled access restrictions, attendees cannot be admitted beyond the lobby of the Internal Revenue Building until 9:45 a.m.

An agenda showing the scheduling of the speakers will be made after outlines are received from the persons testifying. Copies of the agenda will be available free of charge at the hearing.

By direction of the Commissioner of Internal Revenue:

Cynthia E. Grigsby,

Alternate Federal Register Liaison Officer,
Assistant Chief Counsel (Corporate).

[FR Doc. 92-8634 Filed 4-22-92; 8:45 am]

BILLING CODE 4830-01-M

26 CFR Part 1

[FI-105-91]

RIN 1545-AQ26

Section 597 Transitional Rules**AGENCY:** Internal Revenue Service,
Treasury.**ACTION:** Notice of proposed rulemaking
by cross-reference to a temporary
regulation.

SUMMARY: In the Rules and Regulations portion of this issue of the Federal Register, the Internal Revenue Service is issuing a temporary regulation to provide a transitional rule under the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 for the tax treatment of Federal financial assistance received by certain banks and domestic building and loan associations. The temporary regulation affects payments under certain assistance agreements executed before

May 10, 1989. The text of the temporary regulation also serves as the comment document for this notice of proposed rulemaking.

DATES: Written comments and requests to speak (with outlines of oral comments) at the public hearing that is scheduled for July 17, 1992, must be received by June 26, 1992. See notice of public hearing published elsewhere in this issue of the Federal Register.

ADDRESSES: Send comments, requests to speak at the public hearing, and outlines of oral comments to: Internal Revenue Service, P.O. Box 7604, Ben Franklin Station, Washington, DC 20044, Attn: CC:CORP:T:R (FI-105-91), room 5228.

FOR FURTHER INFORMATION CONTACT: Bernita L. Thigpen, 202-566-3297 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

The temporary regulation published in the Rules and Regulations portion of this issue of the Federal Register adds a new temporary regulation § 1.597-8T to part 1 of title 26 of the Code of Federal Regulations (CFR). For the text of the new temporary regulation, see T.D. 8406, published in the Rules and Regulations portion of this issue of the Federal Register. The preamble to the temporary regulation explains the regulation.

Special Analysis

It has been determined that these proposed rules are not major rules as defined in Executive Order 12291. Therefore, a Regulatory Impact Analysis is not required. It has also been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) and the Regulatory Flexibility Act (5 U.S.C. chapter 6) do not apply to this regulation, and, therefore, an initial Regulatory Flexibility Analysis is not required. Pursuant to section 7805(f) of the Internal Revenue Code, this regulation will be submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on their impact on small business.

Comments and Requests to Speak at the Public Hearing

Before this proposed regulation is adopted, consideration will be given to any written comments that are timely submitted (preferably a signed original and eight copies) to the Internal Revenue Service. All comments will be available for public inspection and copying in their entirety. A public hearing will be held on July 17, 1992. See the notice of public hearing published elsewhere in this issue of the Federal Register.

Drafting Information

The principal author of the proposed regulation is Bernita L. Thigpen, Office of the Assistant Chief Counsel (Financial Institutions & Products), Internal Revenue Service. However, other personnel from the Service and Treasury Department participated in their development.

Proposal of Regulations

The temporary regulation (T.D. 8406), published in the Rules and Regulations section of this issue of the Federal Register, is hereby also proposed as a final regulation under section 597 of the Internal Revenue Code of 1986.

David G. Blattner,

Acting Commissioner of Internal Revenue.

[FR Doc. 92-8635 Filed 4-22-92; 8:45 am]

BILLING CODE 4830-01-M

26 CFR Parts 1 and 301

[FI-46-89]

RIN 1545-AN71

Treatment of Acquisition of Certain Financial Institutions; Certain Tax Consequences of Federal Financial Assistance to Financial Institutions

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document contains proposed income tax regulations relating to Federal financial assistance, as defined in section 597(c), that is received by a financially troubled bank or thrift institution, or in connection with the acquisition of a financially troubled bank or thrift institution. This document also contains proposed amendments to the regulations under section 7507. This document is a proposed exercise of the regulatory authority granted to the Secretary of the Treasury pursuant to section 597(a), and provides guidance concerning the proper tax treatment of various transactions involving the receipt of Federal financial assistance.

DATES: Written comments must be received by June 26, 1992. Requests to speak at the public hearing that is scheduled for July 17, 1992, with outlines of oral comments, must be received by June 26, 1992. See notice of public hearing on these proposed regulations published elsewhere in this issue of the Federal Register.

ADDRESSES: Send comments, requests to speak at the public hearing, and outlines of oral comments to: Internal Revenue Service, P.O. Box 7604, Ben Franklin

Station, Attn: CC:CORP:T:R (FI-46-89), room 5228, Washington, DC 20044.

FOR FURTHER INFORMATION CONTACT: Bernita L. Thigpen at 202-566-3590, Thomas J. Matragrano at 202-566-2456 or William D. Alexander at 202-566-3544 (not toll-free numbers).

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act

The collections of information contained in this notice of proposed rulemaking have been submitted to the Office of Management and Budget for review in accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. 3504(h)). Comments on the collections of information should be sent to the Office of Management and Budget, Attn: Desk Officer for the Department of the Treasury, Office of Information and Regulatory Affairs, Washington, DC 20503, with copies to the Internal Revenue Service, Attn: IRS Reports Clearance Officer T:FP, Washington, DC 20224.

The collections of information in this regulation are in §§ 1.597-2(c)(4), 1.597-4(g)(5), 1.597-6(c), and 1.597-7(c)(3). This information is required by the Internal Revenue Service in connection with tracking deferred income and its subsequent recapture, electing to disaffiliate earlier than would otherwise be permitted, electing to apply the provisions of the proposed regulation retroactively, and reporting uncollected income tax. This information will be used for audit and examination purposes. The likely respondents and/or recordkeepers are businesses or other for-profit institutions.

These estimates are an approximation of the average time expected to be necessary for a collection of information. They are based on such information as is available to the Internal Revenue Service. Individual respondents/recordkeepers may require more or less time, depending on their particular circumstances.

Estimated total reporting and recordkeeping burden: 2,200 hours.

The estimated burden per respondent/recordkeeper varies from 1 hour to 11 hours, depending on individual circumstances, with an estimated average of 4.4 hours.

Estimated number of respondents and recordkeepers: 500.

Estimated annual frequency of responses: 1.

Background

In General

The proposed regulations contained in this document provide guidance for

banks and domestic building and loan associations ("Institutions") and their affiliates in connection with receipt of Federal financial assistance ("FFA"), as defined in section 597(c). Section 597 was substantially amended by section 1401 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (Pub. L. 101-73) ("FIRREA"). Section 597(a), as amended by FIRREA, delegates to the Secretary of the Treasury authority to prescribe regulations concerning "any transaction in which Federal financial assistance is provided." The proposed regulations contained in this document are issued under the authority of section 597(a) and provide guidance on the taxation of FFA and related transactions.

Effective Dates

The provisions of the regulations under section 597 generally are proposed to be effective for taxable years ending on or after April 22, 1992, to which section 597, as amended by FIRREA, applies. However, the provisions of the regulations generally do not apply to FFA received or accrued in connection with an acquisition of a financially troubled bank or thrift institution that occurs before April 22, 1992. It is proposed that, with some exceptions, taxpayers may elect to apply the provisions of the regulations under section 597 to prior taxable years or acquisitions to which section 597, as amended by FIRREA, applies. The amendments to the regulations under section 7507 are proposed to be effective for taxable years ending on or after April 22, 1992.

Reliance on These Proposed Regulations

These regulations are being issued in proposed form to provide guidance to taxpayers and to allow interested parties appropriate opportunity to provide comments prior to issuance of final regulations. On September 7, 1989, pending the issuance of regulations, the Internal Revenue Service released Notice 89-102, 1989-2 C.B. 436 (the "Notice"), as preliminary guidance on the tax treatment of the most common transactions involving the receipt of FFA. The proposed regulations supersede the rules contained in the Notice for taxable years ending on or after April 22, 1992. However, the proposed regulations apply to FFA received or accrued in connection with an Agency assisted acquisition (within the meaning of the notice) that occurred before April 22, 1992 only if an election is made to apply the regulations retroactively to all taxable years to which section 597, as amended by

FIRREA, applies. The rules contained in the Notice continue to apply to determine the treatment of FFA and acquisitions that are subject to section 597, as amended by FIRREA, but that are not subject to the proposed regulations.

Taxpayers to which the proposed regulations apply may rely on the proposed regulations for taxable years ending on or after April 22, 1992 and prior to the date final regulations are filed with the Federal Register. Such reliance must be reasonable and transactions with respect to which taxpayers rely must be consistent with the overriding policies of section 597, as expressed in the legislative history, as well as the overriding policies of these proposed regulations.

Explanation of Provisions

This document proposes to add new §§ 1.597-1 through 1.597-7 (the "proposed regulations"). Proposed § 1.597-1 defines certain terms. Proposed §§ 1.597-2 through 1.597-6 provide rules identifying when and by whom FFA must be included in income and the tax consequences of various transactions related to the receipt of FFA, including the creation of a Bridge Bank. Proposed § 1.597-7 provides effective dates.

The proposed regulations generally reflect four principles derived from the legislative history of FIRREA. First, FFA is treated as ordinary income of the Institution that is being compensated for its loss through the provision of the assistance. Second, the timing of the inclusion of FFA should, where feasible, match the recognition of the Institution's losses. Third, where possible, the income tax consequences of an assisted acquisition should not depend on its form. Fourth, the Service generally will not collect tax on FFA if the Service determines a Federal insurer ("Agency") would bear the burden of the tax.

Federal Financial Assistance

Proposed § 1.597-1(a)(2) defines FFA as any money or property provided by Agency to an Institution or to a direct or indirect owner of stock in an Institution pursuant to section 406(f) of the National Housing Act (12 U.S.C. 1729(f)), section 21A(b)(4) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(b)(4)), section 11(f) or 13(c) of the Federal Deposit Insurance Act (12 U.S.C. 1821(f), 1823(c)), or under any similar provision of law. Any such money or property is FFA regardless of whether the Institution or any of its affiliates issues Agency a note or other obligation, stock, warrants, or other rights to acquire stock in connection with Agency's provision

of the money or property. Under this rule, Agency's decision whether or not to take any type of instrument of the recipient as consideration for FFA is tax neutral. Disregarding the issuance of equity or debt instruments furthers the general principles that all FFA should be taxed and that economically equivalent transactions should be treated uniformly. While held by Agency (or an entity under Agency control), the disregarded equity and debt are disregarded for all other purposes of the Code under proposed § 1.597-3(b).

Section 1.597-2: Taxation of Federal Financial Assistance

Proposed § 1.597-2(a)(1) provides that, subject to certain exceptions, all FFA is includible in income when received or accrued in accordance with the recipient's method of accounting.

Proposed § 1.597-2 contains two exceptions to the general rule. Under proposed § 1.597-2(a)(2), certain amounts received pursuant to a loss guarantee are included in the amount realized with respect to the covered asset rather than directly in gross income. The other exception is contained in proposed § 1.597-2(c), which provides a system facilitating the matching of the inclusion of FFA in income with an Institution's losses by deferring the inclusion in income of a portion of the FFA provided to the Institution until the Institution recognizes losses.

In enacting FIRREA, Congress anticipated that—

Although most financial assistance received by, or paid with respect to, financially troubled financial institutions would be treated as taxable, such assistance will be deemed to be received by the financially troubled institution at the time the assets of such institution are sold or transferred. As a result, the financial assistance generally will be offset by the net operating losses and built-in losses of the financially troubled institution. Therefore, the committee, in general, expects that an acquired financially troubled institution will have no net tax liability resulting from the receipt of (or deemed receipt of) financial assistance. The committee recognizes that the net operating losses and built-in losses of the financially troubled institution may not always be sufficient to offset the amount of financial assistance received (or deemed received) by the troubled institution. This may occur, for example, in cases in which the financially troubled institution was a member of an affiliated group filing a consolidated return and the net operating losses of such institution were used to offset the income of other members of the affiliated group. In such a case, the financially troubled institution (or the affiliated group in which the institution is a member) may have net tax liability as a result of receiving financial assistance. In

most cases, the committee considers this an appropriate result because other members of the affiliated group have received the benefit of the losses of the financially troubled institution in prior years.

H.R. Rep. 101-54 (part 2) 101st Cong., 1st Sess. at 27 (including n.12) (1989).

The legislative history and the Notice both assumed that assistance typically would be provided in connection with the acquisition of an entire Institution and, thus, any remaining built-in losses of the Institution would be triggered at the time of the acquisition and would offset the receipt of taxable assistance. The notice provided up to 36 months of deferral for FFA provided in advance of an Institution's acquisition if the Institution was not a subsidiary member of a consolidated group, but did not permit deferral under other circumstances. Commentators have stated that FFA is often provided in taxable years before an Institution triggers built-in losses, producing a mismatching of the income and losses.

Proposed § 1.597-2(c) provides a new system to facilitate the matching of the inclusion of FFA in income with the recognition of any remaining built-in losses. Under this system, the amount of FFA that an Institution must include currently in income is generally limited based on a formula designed to approximate the amount of tax benefits the Institution (or its consolidated group) either currently has available or has previously used. In general, the formula requires FFA for a taxable year to be included currently in income only to the extent (i) The Institution's liabilities exceed the aggregate adjusted bases of its assets at the beginning of the taxable year, or (ii) the Institution has a taxable loss for the taxable year, as determined without regard to FFA or net operating or capital loss carryovers. The formula does not result in double counting since FFA provided to the Institution increases the aggregate bases of its assets and thereby decreases the difference between its liabilities and adjusted bases for purposes of the following taxable year's computation.

Under proposed § 1.597-2(c)(4), the Institution defers inclusion of FFA in excess of the formula amount. Subject to acceleration under certain circumstances, the Institution recaptures the deferred FFA as it recognizes losses in subsequent taxable years.

The proposed regulations provide a less favorable deferral formula for (and make certain favorable provisions unavailable to) Institutions with "Continuing Equity." Under the less favorable deferral formula, such Institutions are required to recapture deferred FFA even if their built-in losses

remain unrealized. An Institution has Continuing Equity if its former owners own five percent or more of the Institution's stock.

To further foster matching, proposed § 1.597-2(c)(5) allows an Institution to offset FFA with losses that are otherwise subject to limitation under sections 56(d)(1), 382 and 383, and §§ 1.1502-15, 1.1502-21, and 1.1502-22.

In computing alternative minimum taxable income, the deferral formula, the recapture provisions, and related rules are applied using alternative minimum tax basis, deductions, etc. All other alternative minimum tax provisions continue to apply.

In addition to the rules of proposed § 1.597-2(c), which facilitate matching by delaying the inclusion in income of FFA until the recognition of built-in losses, other provisions of the regulation, discussed in greater depth below, promote the same goal by accelerating the recognition of the losses. See, e.g., proposed § 1.597-5(b) (deemed sale of all of an Institution's assets upon certain stock transfers).

Proposed § 1.597-2(d) provides for adjustments to the amount of FFA in the case of certain transfers of money or property by an Institution to Agency.

Section 1.597-3: Other Rules.

Proposed § 1.597-3 contains miscellaneous general rules relating to FFA and assisted transactions. Proposed § 1.597-3(a) provides that an Institution is treated for tax purposes as the owner of all assets covered by a loss guarantee, yield maintenance or cost of funds reimbursement agreement, regardless of whether Agency otherwise would be treated as the owner under general tax principles. Taking into account the tax consequences of assisted acquisitions under the proposed regulations, no significant tax policy objective be furthered by treating Agency as acquiring covered assets in exchange for an Agency obligation, and the acquiring corporation as owning the obligation rather than the covered assets. Thus, the proposed regulations eliminate the burden of having to determine the tax ownership of covered assets under common law standards. This provision applies only if the arrangement with Agency is governed by these regulations. No inference should be drawn from this provision as to the ownership for income tax purposes of any asset in any other context.

As noted above, FFA includes all money or property provided with respect to an Institution regardless of whether the Institution or any of its affiliates issues Agency a note or other

obligation, stock, warrants, or other rights to acquire stock in connection with Agency's provision of the money or property. As a corollary provision, proposed § 1.597-3(b) disregards any debt instrument, stock, warrant, or other stock right issued by an Institution (or any of its affiliates) to Agency (or an entity under Agency Control) in connection with Agency's provision of FFA as long as the instrument or right is held by Agency or an entity under Agency Control. Thus, for example, if an Institution issues warrants to Agency in connection with the provision of FFA, amounts paid by the Institution to redeem the warrants from Agency should be treated as a repayment of FFA under proposed § 1.597-2(d) rather than as a cost of redeeming warrants.

Proposed § 1.597-3 also provides rules for determining the issue price of an Agency Obligation issued in connection with an acquisition, the status as successor of certain entities for purposes of the regulations under section 597, and the treatment of FFA and gain on Taxable Transfers under the loss disallowance rules of § 1.502-20.

Section 1.597-4: Bridge Banks and Agency Control

Proposed § 1.597-4 provides rules concerning the treatment of Institutions under Agency Control, including Bridge Banks. An Institution is under "Agency Control" if the Institution is in conservatorship or receivership, or if Agency has the right to appoint any of the Institution's directors. With certain exceptions, proposed § 1.597-4 makes the Agency's choice of the form of Agency Control tax neutral.

Under proposed § 1.597-4(b), an Institution under Agency Control, including a Bridge Bank, is treated as a corporation for all tax purposes and is subject to all rules generally applicable to corporations. This rule is consistent with the legislative intent that such Institutions be taxable entities.

Proposed § 1.597-4(c) provides that certain events are disregarded in determining whether an ownership change has occurred within the meaning of section 382(g). This rule is in furtherance of the proposed regulations' policy of facilitating the matching of losses that give rise to an Institution's insolvency against the FFA it receives.

Under proposed §§ 1.597-4 (d) and (e), a Bridge Bank generally is treated as the successor to the transferring Institution if the transfer includes deposit liabilities. The Bridge Bank takes a carryover basis in any transferred assets and succeeds to the other tax attributes (including the deferred FFA

account, if any) of the transferor. After the transfer, the transferor (called the "Residual Entity") is treated in effect as a division of the Bridge Bank for income tax purposes rather than as a separate entity, until either is acquired by new owners. The treatment of a Bridge Bank and its Residual Entity as a single entity is necessary to ensure similarity of tax treatment regardless of whether an Institution's entire deposit base is transferred to a Bridge Bank and regardless of the extent to which its assets are transferred to the Bridge Bank.

In the case of an Institution that is a member of a consolidated group, the legislative history indicates that Congress intended that FFA be included in the income of the Institution or consolidated group, at least to the extent the consolidated group benefitted from use of the Institution's losses. In order for the FFA to be included in the income of the transferor or its consolidated group, the Bridge Bank must succeed to the transferor's status, including its status in any consolidated group. To achieve this result, unless an election to disaffiliate is made under proposed § 1.597-4(g), proposed § 1.597-4(f) preserves an Institution's status as a member of a consolidated group until the FFA is received and can be included in the group's income. The Institution remains a member of the consolidated group regardless of Agency Control or the transfer of its deposit base to a Bridge Bank. If an Institution is a member of a consolidated group immediately before it transfers deposit liabilities to a Bridge Bank, the Bridge Bank succeeds to the Institution's status in the group. Upon a Bridge Bank's succession to an Institution's status as a subsidiary member, the Bridge Bank's stock is treated as held by the shareholders of the transferring Institution, and the stock basis or excess loss account of the Institution carries over to the Bridge Bank.

Proposed § 1.597-4(g) provides a rule under which a consolidated group of which an Institution in Agency receivership is a subsidiary member may elect to exclude the Institution from the affiliated group. The election is irrevocable and requires the inclusion of a "toll charge" in the group's income. Inclusion of the toll charge permits the group to disaffiliate the Institution while effectuating the policies of FIRREA described above. The toll charge is intended to reflect the amount the group would include in income if Agency were to provide the entire amount of FFA necessary to restore the Institution's solvency at the time of the event

permitting disaffiliation. To make the election, the consolidated group must send a written statement to the affected Institution within 120 days of the later of its placement in Agency receivership or the date final regulations under section 597 are filed with the Federal Register.

To further carry out these policies, proposed § 1.597-4(g)(6) imposes a deemed election (subject to the toll charge) if members of a consolidated group deconsolidate a subsidiary Institution in contemplation of Agency Control or the receipt of FFA. A conclusive presumption of contemplation arises if either event occurs within six months after a deconsolidation. Proposed § 1.597-4(g)(6) also imposes a deemed election when deposit liabilities are transferred to a Bridge Bank by two or more Institutions that are not members of the same consolidated group. This provision is provided because it would otherwise be difficult to decide which consolidated group should include the Bridge Bank. It also would be inappropriate to move assets or liabilities from unrelated Institutions into a different consolidated group without associated tax consequences.

After any affirmative or deemed election to disaffiliate, an Institution is generally treated as a new corporation that obtains a carryover basis in its assets but no loss carryovers. In addition, the new corporation is treated as holding a receivable in the amount of the toll charge which offsets the inclusion of future FFA.

Section 1.597-5: Taxable Transfers

Proposed § 1.597-5 provides rules applicable uniformly to a broad category of asset sales (including transactions characterized under this regulation as asset sales) by an Institution under Agency Control and its "Consolidated Subsidiaries." The purpose of these rules is to treat acquisitions of Institutions under Agency Control as taxable asset acquisition whether the acquisition is in the form of an asset purchase, a stock purchase or a carryover basis transaction. A third party's assumption of deposit liabilities of an Institution under Agency Control (even if no assets are actually transferred by the Institution) is treated as a taxable asset acquisition, unless the third party assuming the deposit liabilities is a Bridge Bank.

Sales to which proposed § 1.597-5 applies are referred to as "Taxable Transfers." The prototypical Taxable Transfer is a transaction in which an acquiror assumes all of a failed Institution's deposit liabilities in exchange for FFA and the failed

Institution's assets. Taxable Transfers also include transactions in which an acquiror (other than a Bridge Bank) assumes some of a failed Institution's deposit liabilities in exchange for FFA or Institution assets. A Taxable Transfer might take this form if Agency resolves the Institution branch-by-branch. In addition to actual transfers of part or all of an Institution's assets or liabilities, Taxable Transfers include deemed sales of a corporation's assets. A deemed sale of all corporate assets occurs when stock transfers cause an Institution or its Consolidated Subsidiary to enter or leave a consolidated group or to experience a 50 percent or more ownership shift.

In addition to conforming the federal income tax consequences of various forms of acquisitions, the deemed transfer rule in proposed § 1.597-5(b) fosters the matching of FFA income with an Institution's losses by triggering an Institution's built-in losses. The deemed transfer rules also implement the policies reflected in the legislative history by preventing another taxpayer from purchasing the tax attributes of an Institution.

All Taxable Transfers, whether resulting from a branch sale, an actual sale of an Institution's assets and liabilities, or a deemed sale, are subject to the same rules governing receipt of Net Worth Assistance and allocation of amount realized and basis.

Generally, the rules of § 1.597-5 are designed to measure the transferor's amount realized and the transferee's basis by reference to the consideration. To achieve this result in the case of a deemed asset sale, the proposed regulations "gross-up" the cost of acquired stock in a manner similar to section 338. Once the amount realized or the purchase price is determined, certain of the rules under section 338, as modified by proposed §§ 1.597-5(c) and (d), are applied to allocate the amount realized and basis in all Taxable Transfers. For example, proposed § 1.597-5(c)(1) provides that Net Worth Assistance is treated as an asset of the selling Institution sold to the actual transferee ("Acquiring") or deemed transferee ("New Entity") in the Taxable Transfer. The New Entity or Acquiring cannot include the amount of the Net Worth Assistance, or any other FFA, in its purchase price (proposed § 1.597-5(d)(1)).

Section 1.597-6: Limitation on Collection of Income Tax

In a Taxable Transfer of an Institution or Consolidated Subsidiary, the New Entity or Acquiring does not receive the

transferor's tax attributes. Under proposed § 1.597-6(e), the New Entity or Acquiring takes the Institution, its Consolidated Subsidiaries, or their assets free from any pre-existing federal income tax liability. Proposed § 1.597-6(e) assures buyers that no income tax liability of the transferor will be collected from the New Entity or Acquiring (unless persons who owned five percent or more of the transferor's stock own five percent or more of the stock of New Entity or Acquiring). This noncollection provision applies to all income tax liabilities, including several liability under § 1.502-6 of the consolidated return regulations, and, by virtue of the proposed § 1.597-5(b) deemed sale, extends to buyers in an acquisition of stock of an Institution or its Consolidated Subsidiary.

Proposed § 1.597-6(a) provides that the Service generally will not collect income taxes attributable to the receipt of FFA or gain from a Taxable Transfer if Agency would bear the burden of the tax. The final determination of whether the tax would be borne by Agency is within the sole discretion of the Commissioner. In determining whether tax would be borne by Agency, the Commissioner will disregard indemnity, tax sharing or similar obligations of Agency, an Institution, or its Consolidated Subsidiaries.

The noncollection policy is designed to benefit Agency. Thus, noncollection does not extend to an Institution with Continuing Equity because, in such cases, noncollection benefits those who owned the Institution during the period it incurred the losses. Similarly, members of a consolidated group other than the Institution and its Consolidated Subsidiaries may have benefited from the Institution's losses. Consequently, the several liability of those members for the income tax attributable to FFA or gain from a Taxable Transfer is still subject to collection.

To ensure that there is no inappropriate benefit from noncollection, proposed § 1.597-6(d) provides that the income tax not subject to collection will continue to be assessed.

Section 1.597-7: Effective Dates

Generally, this regulation is proposed to apply to taxable years ending on or after April 22, 1992. However, the provisions of the proposed regulations generally do not apply to FFA received or accrued in connection with an Agency assisted acquisition (within the meaning of the Notice) before April 22, 1992.

The regulation proposes a rule that generally would allow a consolidated

group or, if the Institution was not a subsidiary member of a consolidated group, the Institution to elect to apply the regulations' provisions retroactively to prior transactions governed by FIRREA once the regulations under section 597 are issued in final form. A group's election to apply the regulation retroactively applies to all members of the consolidated group. Also, if more than a de minimis overlap in ownership of the transferor and transferee in a Taxable Transfer exists, the regulations applies retroactively only if both corporations so elect. If, under the Notice, a section 338 election was available with respect to a Target but was not timely made, no election can be made to apply this regulation retroactively with respect to the Target.

Section 7507

Section 7507 prevents the assessment and collection of income tax when a bank ceases to do business because of insolvency. The proposed amendments to §§ 301.7507-1(b) and 301.7507-9(d) are intended to clarify the existing regulations under section 7507 and to reflect the changes made by FIRREA that Congress intended to affect section 7507.

The legislative history for the predecessor of section 7507(a) indicates that Congress envisioned the term "ceased to do business" to mean the business " * * * is being wound up in the course of liquidation * * * " 8 Cong. Rec. S1917 (1879). The FIRREA conference report states that the regulatory authority granted by the bill may be exercised "to limit the potential applicability of section 7507" and to consider alternate rules to limit the collection (but not the assessment) of income tax attributable to FFA in limited circumstances. H.R. Conf. Rep. No. 101-222, 101st Cong., 1st Sess. at 464 (1989). The proposed exercise of this latter authority is in proposed § 1.597-6, which limits the collection of income tax in certain circumstances.

Proposed § 301.7507-1(b)(4) provides that a bank ceases to do business when it either no longer accepts deposits or no longer makes loans and discounts. Proposed § 301.7507-1(b)(4)(i) and (ii) provide that the term "ceased to do business" does not include transfers to a Bridge Bank or a transaction to which section 381(a) applies because these are transactions in which the historic business and the tax history of the institution do not, in fact, end. See, e.g., *Clinton Trust Co. v. U.S.*, 52 F. Supp. 671 (Ct. Cl. 1943), in which a trust company ceased its banking operation due to insolvency, reorganized and reopened,

and the predecessor of section 7507 was held not to apply.

Section 301.7507-1(b)(4)(iii) is intended to prevent any Institution from avoiding the income tax consequences of the receipt of FFA. Finally, subparagraph (iv) provides a broad interpretative rule to prevent the circumvention of the intent of paragraphs (i), (ii), or (iii) of § 301.7507-1(b)(4).

The proposed amendment to § 301.7507-9(d) clarifies the characterization of FFA. Generally, the regulations under section 7507 provide that insurance payments to depositors are not taken into account as assets of an Institution to determine whether it is solvent. FFA is generally not paid to depositors and, therefore, will not be treated as a deposit insurance payment. Instead, it is treated as an asset of the Institution. This result provides consistent characterization of FFA for sections 597 and 7507.

The amendments to the regulations under section 7507 are proposed to be effective for taxable years ending on or after April 22, 1992.

Special Analyses

These proposed rules are not major rules as defined in Executive Order 12291. Therefore, a Regulatory Impact Analysis is not required. These regulations will generally only apply to certain financially troubled financial institutions and the consolidated groups, if any, to which they belong. Thus, they will generally not have a significant impact on a substantial number of small entities, nor will they significantly alter the reporting or recordkeeping duties of small entities. Therefore, an initial Regulatory Flexibility Analysis is not required. Pursuant to section 7805(f) of the Internal Revenue Code, these regulations will be submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on their impact on small business.

Comments and Request for a Public Hearing

Before adopting these proposed regulations, consideration will be given to any written comments that are submitted timely (preferably an original and eight copies) to the Internal Revenue Service. All comments will be available for public inspection and copying in their entirety. Written comments, requests to appear and outlines of oral comments to be presented at a public hearing on July 17, 1992, must be received by June 26, 1992. See notice of hearing published elsewhere in this issue of the Federal

Register. Send comments, requests to appear, and outlines of oral comments to: Internal Revenue Service, Attn: CC:CORP:T-R (FI-46-89), room 5228, P.O. Box 7604, Ben Franklin Station, Washington, DC 20044.

Drafting Information

The principal authors of these proposed regulations are Bernita L. Thigpen of the Office of the Assistant Chief Counsel (Financial Institutions and Products) and Vicki J. Hyche of the Office of the Assistant Chief Counsel (Corporate), Internal Revenue Service. However, other personnel from the Internal Revenue Service and Treasury Department participated in their development.

List of Subjects

26 CFR 1.591-1 through 1.601-1

Banks, Banking, Income taxes, Reporting and recordkeeping requirements.

26 CFR Part 301

Administrative practice and procedure, Alimony, Bankruptcy, Child support, Continental shelf, Courts, Crime, Employment taxes, Estate taxes, Excise taxes, Gift taxes, Income taxes, Investigations, Law enforcement, oil pollution, Penalties, Pensions, Reporting and recordkeeping requirements, Statistics, and Taxes.

Proposed Amendments to the Regulations

Accordingly, 26 CFR parts 1 and 301 are proposed to be amended as follows:

PART 1—INCOME TAX; TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1953

Paragraph 1. The authority for part 1 is amended by adding the following citation:

Authority: Sec. 7805, 68A Stat. 917; 26 U.S.C. 7805 * * * Sections 1.597-1 through 1.597-7 also issued under 26 U.S.C. 597 and 1502.

Par. 2. New §§ 1.597-1 through 1.597-7 are added to read as follows:

§ 1.597-1 Definitions.

For purposes of the regulations under section 597—

(a) Unless the context otherwise requires, the terms "consolidated group," "member" and "subsidiary" have the meanings provided in § 1.1502-1; and

(b) The following terms have the meanings provided below—

Acquiring. The term "Acquiring" means a corporation that is a transferee in a Taxable Transfer, other than a

deemed transferee in a Taxable Transfer described in § 1.597-5(b).

Agency. The term "Agency" means the Resolution Trust Corporation, the Federal Deposit Insurance Corporation, any similar instrumentality of the United States government, and any predecessor or successor of the foregoing (including the Federal Savings and Loan Insurance Corporation).

Agency Control. An Institution or entity is under "Agency Control" if Agency is conservator or receiver of the Institution or entity, or if Agency has the right to appoint any of the Institutions' or entity's directors.

Agency Obligation. The term "Agency Obligation" means a debt instrument that Agency issues to an Institution or to a direct or indirect owner of an Institution.

Bridge Bank. The term "Bridge Bank" means—

(1) A national bank organized by Agency and chartered by the Comptroller of the Currency pursuant to section 11(n) of the Federal Deposit Insurance Act (12 U.S.C. 1821(n)) or section 21A(b)(11)(A) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(b)(11)(A)) or any successor sections; or

(2) A Federal savings association organized by Agency and chartered by the Director of the Office of Thrift Supervision pursuant to section 21A(b)(11)(A) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(b)(11)(A)) or any successor section.

For the purpose of holding assets and liabilities of an Institution and continuing the operation of the Institution's business pending its acquisition or liquidation.

Consolidated Subsidiary. The term "Consolidated Subsidiary" means a member of the consolidated group of which an Institution is a member that bears the same relationship to the Institution that the members of a consolidated group bear to their common parent under section 1504(a)(1).

Continuing Equity. "Continuing Equity" for any taxable year means one or more persons who owned, directly or indirectly, or through related persons within the meaning of section 267(b), five percent or more (by vote or value) of an Institution's stock at any time during the two-year period before the Institution was placed under Agency Control or first received FFA (whichever is earlier), own, directly or indirectly, or through related persons within the meaning of section 267(b), five percent or more (by vote or value) of the Institution's stock on the last day of the taxable year. Neither a Bridge Bank nor an Institution in Agency receivership is

considered to have Continuing Equity during the existence of the Bridge Bank or Agency receivership.

Federal Financial Assistance ("FFA"). The term "Federal Financial Assistance" ("FFA"), as defined by section 597(c), means any money or property provided by Agency to an Institution or to a direct or indirect owner of stock in an Institution pursuant to section 406(f) of the National Housing Act (12 U.S.C. 1729(f)), section 21A(b)(4) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(b)(4)), section 11(f) or 13(c) of the Federal Deposit Insurance Act (12 U.S.C. § 1821(f), 1823(c)), or under any similar provision of law. Any such money or property is FFA, regardless of whether the Institution or any of its affiliates issues Agency a note or other obligation, stock warrants, or other rights to acquire stock in connection with Agency's provisions of the money or property. FFA includes Net Worth Assistance, Loss Guarantee payments, yield maintenance payments, cost to carry or cost of funds reimbursement payments, expense reimbursement or indemnity payment, and interest (including original issue discount) on any Agency Obligation.

Institution. The term "Institution" means a bank or domestic building and loan association within the meaning of section 597 (including a Bridge Bank).

Loss Guarantee. The term "Loss Guarantee" means an agreement pursuant to which Agency or an entity under Agency Control guarantees an Institution a specified price upon the disposition of specific assets, an agreement pursuant to which an Institution has a right to "put" assets to Agency or an entity under Agency Control at a specified price, or a similar arrangement.

Net Worth Assistance. The term "Net Worth Assistance" means money or property (including an Agency Obligation to the extent it has fixed principal amount) that Agency provides as an integral part of a Taxable Transfer. An Agency Obligation is considered to have a fixed principal amount notwithstanding an agreement providing for its adjustment after issuance to reflect a more accurate determination of the condition of the Institution at the time of the acquisition.

New Entity. The term "New Entity" means the new corporation that is treated as purchasing all of the assets of an Old Entity in a Taxable Transfer described in § 1.597-5(b).

Old Entity. The term "Old Entity" means the Institution or Consolidated Subsidiary that is treated as selling all

of its assets in a Taxable Transfer described in § 1.597-5(b).

Residual Entity. The term "Residual Entity" means the entity that remains after an Institution transfers deposit liabilities to a Bridge Bank.

Taxable Transfer. The term "Taxable Transfer" has the meaning provided in § 1.597-5(a)(2).

§ 1.597-2 Taxation of federal financial assistance.

(a) *Inclusion in income*—(1) *In general.* Except as otherwise provided in the regulations under section 597, all FFA is includible in the recipient's income at the time the FFA is received or accrued in accordance with the recipient's method of accounting. The amount of FFA received or accrued is the amount of any money, the fair market value of any property (other than an Agency Obligation), and the issue price of any Agency Obligation (determined pursuant to § 1.597-3(c)(2)). An Institution (and not the nominal recipient) is treated as receiving directly any FFA that Agency provides in a taxable year to a direct or indirect shareholder of the Institution, to the extent money or property is transferred to the Institution pursuant to an agreement with Agency.

(2) *Loss Guarantee.* FFA provided pursuant to a Loss Guarantee is included in the amount realized from the sale or other disposition of the covered asset to the extent the total amount realized does not exceed the greater of—

- (i) The asset's fair market value; or
- (ii) The highest guaranteed value or price at which the asset can be "put."

The FFA that is included in the amount realized is includible in income to the extent of any resulting gain. Any FFA provided pursuant to a Loss Guarantee that is not included in the amount realized because of the limit imposed in the first sentence of this paragraph (a)(2) is includible in income pursuant to paragraph (a)(1) of this section. (See § 1.597-5(c)(3)(ii) for rules that apply to covered assets in Taxable Transfers.)

(3) *Net Worth Assistance.* See § 1.597-5(c)(1) for additional rules regarding the includibility of Net Worth Assistance in the income of an Institution.

(b) *Basis of property that is FFA.* If FFA is received in the form of property, the Institution's basis in the property equals the fair market value of the property (other than an Agency Obligation) or the issue price of the Agency Obligation.

(c) *Timing of inclusion of certain FFA*—(1) *Scope.* This paragraph (c) limits the amount of FFA an Institution

must include in income currently under certain circumstances and provides rules for the deferred inclusion in income of amounts in excess of those limits. This paragraph (c) does not apply to a New Entity or Acquiring. (See paragraph (c)(6) of this section for rules regarding the aggregation of an Institution and its Consolidated Subsidiaries and the treatment of bad debt reserves.)

(2) *Amount currently included in income by an Institution without Continuing Equity.* The amount of FFA an Institution without Continuing Equity must include in income in a taxable year pursuant to paragraph (a) of this section is limited to the sum of—

(i) The excess at the beginning of the taxable year of the Institution's liabilities over the adjusted bases of the Institution's assets; plus

(ii) The excess for the taxable year of the Institution's deductions allowed by chapter 1 of the Code (other than net operating and capital loss carryovers) over its gross income (determined without regard to FFA).

(3) *Amount currently included in income by an Institution with Continuing Equity.* The amount of FFA an Institution with Continuing Equity must include in income in a taxable year pursuant to paragraph (a) of this section is limited to the sum of—

(i) The excess at the beginning of the taxable year of the Institution's liabilities over the adjusted bases of the Institution's assets; plus

(ii) The greater of—
(A) The excess for the taxable year of the Institution's deduction allowed by chapter 1 of the Code (other than net operating and capital loss carryovers) over its gross income (determined without regard to FFA), or

(B) The excess for the taxable year of the deductions allowed by chapter 1 of the Code (other than net operating and capital loss carryovers) of the consolidated group of which the Institution is a member on the last day of the Institution's taxable year over the group's gross income (determined without regard to FFA); plus

(iii) The amount of any net operating loss carryover of the Institution (or in the case of a carryover from a consolidated return year of the Institution's current consolidated group, the net operating loss carryover of the group) to the taxable year.

(4) *Deferred FFA*—(i) *Maintenance of account.* An institution must establish a deferred FFA account commencing in the first taxable year in which FFA is deferred pursuant to paragraph (c)(2) or (c)(3) of this section, and must maintain that account in accordance with the

requirements of this section. The Institution must add the amount of any FFA deferred pursuant to paragraph (c)(2) or (c)(3) of this section to its deferred FFA account. If FFA is deferred under paragraph (c)(3) of this section in a taxable year, the Institution thereafter must maintain its deferred FFA account on a FIFO (first in, first out) basis.

(ii) *Deferred FFA recapture.* If for any taxable year an Institution's deductions allowed by chapter 1 of the Code (other than net operating and capital loss carryovers) exceed its gross income (taking into account FFA included in income after application of paragraph (c)(2) or (c)(3) of this section), the Institution must include in income for the year, and decrease its deferred FFA account balance by, an amount equal to the lesser of—

- (A) This excess, or
- (B) The balance in its deferred FFA account.

(iii) *Additional deferred FFA recapture by an Institution with continuing Equity.* To the extent that, as of the end of a taxable year, the cumulative amount of FFA deferred pursuant to paragraph (c)(3) of this section that an Institution with Continuing Equity has recaptured pursuant to paragraph (c)(4) of this section is less than the cumulative amount of FFA deferred pursuant to paragraph (c)(3) of this section that the Institution would have recaptured if that FFA had been included in income ratably over the six taxable years immediately following the taxable year of deferral, the Institution must include that difference in income for the taxable year and decrease its deferred FFA account by that amount. An Institution with Continuing Equity must include in income the entire remaining balance in its deferred FFA account in the taxable year in which it liquidates, ceases to do business, transfers (other than to a Bridge Bank) substantially all of its assets and liabilities, or is deemed to transfer all of its assets pursuant to § 1.597-5(b).

(5) *Exceptions to limitations on use of losses.* In computing an Institution's taxable income or alternative minimum taxable income for a taxable year, the limitations imposed by sections 56(d)(1), 382 and 383 and § 1.1502-15, 1.1502-21 and 1.1502-22 do not apply to the attributes of the Institution to the extent, if any, that the inclusion of FFA (including recaptured FFA) in income results in taxable income or alternative minimum taxable income (determined without regard to this paragraph (c)(5)) for the taxable year. This paragraph (c)(5) does not apply to any limitation

under section 382 or 383 or § 1.1502-15, 1.1502-21, or 1.1502-22 that arose in connection with or prior to a corporation becoming a Consolidated Subsidiary of the Institution.

(6) *Operating rules*—(i) *Bad debt reserves*. For purposes of paragraphs (c)(2) and (c)(3) of this section, the adjusted bases of the Institution's assets are reduced by the amount of the Institution's reserves for bad debts under section 585 or 593, other than supplemental reserves under section 593.

(ii) *Aggregation of Consolidated Subsidiaries*. For purposes of this paragraph (c), an "Institution" is treated as a single entity that includes the income, expenses, assets, liabilities, and attributes of its Consolidated Subsidiaries, with appropriate adjustments to prevent duplication.

(7) *Earnings and profits*. FFA that is deferred pursuant to paragraph (c)(2) or (c)(3) of this section is included in earnings and profits for all purposes of the Code only to the extent (and at the same time) it is included in income pursuant to paragraph (c)(4) of this section.

(8) *Anti-abuse rule*. In the case of a transaction that distorts the application of this paragraph (c), the Commissioner may make adjustments to income and other items to the extent necessary to carry out the purposes of section 597.

(d) *Transfers to Agency*.—The transfer of an asset to Agency is a taxable sale or exchange of the asset. If an Institution transfers an asset not covered by a Loss Guarantee to Agency or an entity under Agency Control for less than fair market value, the Institution is treated as receiving an amount equal to the fair market value of the asset for purposes of determining the amount of gain or loss recognized. To the extent the amount of money or the fair market value of an asset not covered by a Loss Guarantee exceeds the consideration (including deposit insurance coverage) Agency or an entity under Agency Control provides in exchange, the excess is treated as an adjustment to FFA. The Institution must reduce in the following order and in an aggregate amount not greater than the adjustment—

(1) The amount of the FFA that is otherwise includible in the Institution's income for the taxable year (before application of the deferral provisions of § 1.597-2(c)); and

(2) The balance (but not below zero) in the Institution's deferred FFA account, if any, maintained pursuant to paragraph (c) of this section.

If the amount of the adjustment exceeds the sum of the amounts

described in paragraphs (d)(1) and (d)(2) of this section, the Institution may deduct the excess, but only to the extent the deduction does not exceed the amount of FFA the Institution included in income for prior taxable years reduced by the amount of deductions allowable pursuant to this sentence in prior taxable years.

(e) *Examples*. The following examples illustrate the provisions of this section:

Example 1. Timing of inclusion of FFA in income. (i) Institution M, a calendar year taxpayer without Continuing Equity, is not a member of a consolidated group and has not been acquired in a Taxable Transfer. On January 1, 1993 M has assets with a total adjusted basis of \$100 million and total liabilities of \$120 million. M's deductions do not exceed its gross income (determined without regard to FFA) for 1993. Agency provides \$30 million of FFA to M in 1993. The amount of this FFA that M must include in income in 1993 is limited by § 1.597-2(c)(2) to \$20 million, the amount by which M's liabilities (\$120 million) exceed the total adjusted basis of its assets (\$100 million) at the beginning of the taxable year. Pursuant to § 1.597-2(c)(4), M must establish a deferred FFA account for the remaining \$10 million.

(ii) If Agency instead lends M the \$30 million, M's indebtedness to Agency is disregarded and the results are the same as in (i). Section 597(c); §§ 1.597-1(a)(2) (defining FFA) and 1.597-3(b).

Example 2. Transfer of assets to Agency. (i) Institution M, a calendar year taxpayer without Continuing Equity, is not a member of a consolidated group and has not been acquired in a Taxable Transfer. At the beginning of 1994, M has a deferred FFA account of \$10 million. Agency does not provide any FFA to M in 1994. During the year, M transfers assets not covered by a Loss Guarantee to Agency and does not receive any consideration. The assets have an adjusted basis of \$5 million and a fair market value of \$1 million at the time of the transfer. M has no other taxable income or loss in 1994.

(ii) Under § 1.597-2(d), M is treated as selling the assets for \$1 million, their fair market value, thus recognizing a \$4 million loss (\$5 million - \$1 million). In addition, because M did not receive any consideration from Agency, under § 1.597-2(d) M has an adjustment to FFA of \$1 million, the amount by which the fair market value of the transferred assets (\$1 million) exceeds the consideration M received from Agency (\$0). Since no FFA is provided to M in 1994, this adjustment reduces the balance of M's deferred FFA account to \$9 million (\$10 million - \$1 million). Section 1.597-2(d)(2). Because M's \$4 million loss causes M's deductions to exceed its gross income by \$4 million in 1994, under § 1.597-2(c)(4) M must include \$4 million of deferred FFA in income, and must decrease the remaining \$9 million balance of its deferred FFA account by the same amount, leaving a balance of \$5 million.

Example 3. Loss Guarantee. Institution Q, a calendar year taxpayer, sells an asset covered by a Loss Guarantee to an unrelated third party for \$4,000. Q's adjusted basis in

the asset at the time of sale and the asset's guaranteed value are both \$10,000. Pursuant to the Loss Guarantee, Agency pays Q \$6,000 (\$10,000 - \$4,000). Q's amount realized from the sale of the asset is \$10,000 (\$4,000 from the third party and \$6,000 from Agency). Section 1.597-2(a)(2). Q realizes no gain or loss on the sale (\$10,000 - \$10,000 = \$0), and therefore includes none of the \$6,000 of FFA it receives pursuant to the Loss Guarantee in income. Section 1.597-2(a)(2).

§ 1.597-3 Other rules.

(a) *Ownership of assets*. For tax purposes, an Institution is treated as the owner of all assets covered by a Loss Guarantee, yield maintenance agreement, or cost to carry or cost of funds reimbursement agreement, regardless of whether Agency (or an entity under Agency Control) otherwise would be treated as the owner under general principles of income taxation.

(b) *Debt and equity interests received by Agency*. Debt instruments, stock, warrants, or other rights to acquire stock of an Institution (or any of its affiliates) that Agency or an entity under Agency Control receives in connection with the provision of FFA are not treated as debt, stock or other equity interests of or in the issuer for any purpose of the Code while held by Agency or an entity under Agency Control.

(c) *Agency Obligations*—(1) *In general*. Except as otherwise provided in this paragraph (c), the original issue discount rules of sections 1271 *et seq.* apply to Agency Obligations.

(2) *Issue price of Agency Obligations provided as Net Worth Assistance*. The issue price of an Agency Obligation that is provided as Net Worth Assistance and that bears interest at either a single fixed rate or a qualified variable rate (and provides for no contingent payments) is the lesser of the sum of the present values of all payments due under the obligation, discounted at a rate equal to the applicable federal rate (within the meaning of section 1274(d)(1) and (3)) in effect for the date of issuance, or the stated principal amount of the obligation. The issue price of an Agency Obligation that bears a qualified variable rate of interest is determined by treating the obligation as bearing a fixed rate of interest equal to the rate in effect on the date of issuance under the obligation. A variable rate of interest is a qualified variable rate of interest if it is based on current values of a single objective interest index within the meaning of proposed § 1.1275-5(b).

(3) *Adjustments to principal amount*. Except as provided in § 1.597-5(d)(2)(iv), this paragraph (c)(3) applies if Agency modifies or exchanges an Agency Obligation provided as Net Worth

Assistance (or a successor obligation). The issue price of the modified or new Agency Obligation is determined under paragraphs (c)(1) and (c)(2) of this section. If the issue price is greater than the adjusted issue price of the existing Agency Obligation, the difference is treated as FFA. If the issue price is less than the adjusted issue price of the existing Agency Obligation, the difference is treated as an adjustment to FFA to which § 1.597-2(d) applies.

(d) *Successors.* To the extent necessary to effectuate the purposes of the regulations under section 597, an entity's treatment under the regulations applies to its successor. A successor includes a transferee in a transaction to which section 381(a) applies or a Bridge Bank to which another Bridge Bank transfers deposit liabilities.

(e) *Loss disallowance.* For purposes of § 1.1502-20, FFA and the amount described in § 1.597-4(g)(4) are treated as an extraordinary gain disposition within the meaning of § 1.1502-20(c)(2)(i) and a Taxable Transfer is treated as an applicable asset acquisition under section 1060(c) within the meaning of § 1.1502-20(c)(2)(i)(A)(4).

§ 1.597-4 Bridge banks and agency control.

(a) *Scope.* This § 1.597-4 provides rules that apply to a Bridge Bank or other Institution under Agency Control and to transactions in which an Institution transfers deposit liabilities (whether or not the Institution also transfers assets) to a Bridge Bank.

(b) *Status as taxpayer.* A Bridge Bank or other Institution under Agency Control is a corporation within the meaning of section 7701(a)(3) for all purposes of the Code and is subject to all Code provisions that generally apply to corporations, including those relating to methods of accounting and to requirements for filing returns, even if Agency owns stock of the Institution.

(c) *No section 382 ownership change.* The imposition of Agency Control, the cancellation of Institution stock by Agency, a transaction in which an Institution transfers deposit liabilities to a Bridge Bank, and an election under paragraph (g) of this section are disregarded in determining whether an ownership change has occurred within the meaning of section 382(g).

(d) *Transfers to Bridge Banks—(1) In general.* In general, a Bridge Bank and its associated Residual Entity are together treated as the successor entity to the transferring Institution. If an Institution transfers deposit liabilities to a Bridge Bank (whether or not it also transfers assets), the Institution recognizes no gain or loss on the

transfer and the Bridge Bank succeeds to the transferring Institution's basis in transferred assets. The associated Residual Entity retains its basis in assets it continues to hold. Immediately after the transfer, the Bridge Bank succeeds to and takes into account the transferring Institution's items described in section 381(c) (subject to the conditions and limitations specified in sections 381(b)(3) and 381(c)), taxpayer identification number ("TIN"), and deferred FFA account, and succeeds to and continues the transferring Institution's taxable year.

(2) *Transfers to a Bridge Bank from multiple Institutions in the same consolidated group.* Except as otherwise provided in this paragraph (d)(2), if two or more Institutions that are members of the same consolidated group transfer deposit liabilities to the same Bridge Bank, the rules in paragraph (d)(1) of this section apply. The Bridge Bank succeeds to the TIN and continues to taxable year of the Institution that transfers the largest amount of deposits. The taxable years of the other transferring Institutions close at the time of the transfer. (See paragraph (g)(6)(ii) of this section for rules that apply if two or more Institutions that are not members of the same consolidated group transfer deposit liabilities to the same Bridge Bank.)

(3) *Treatment of Bridge Bank and Residual Entity as a single entity.* A Bridge Bank and its associated Residual Entities are treated as a single entity for income tax purposes and must file a single combined income tax return. The Bridge Bank is responsible for filing all income tax returns and statements for this single entity and is the agent of each associated Residual Entity to the same extent as if the Bridge Bank were the common parent of a consolidated group including the Residual Entity. The term "Institution" includes a Residual Entity that files a combined return with its associated Bridge Bank.

(f) *Rules applicable to members of consolidated groups—(1) Status as members.* Unless an election is made pursuant to paragraph (g) of this section, Agency Control of an Institution does not terminate the Institution's membership in a consolidated group. Stock of a subsidiary that is canceled by Agency is treated as held by the members of the consolidated group that held the stock prior to its cancellation. If an Institution is a member of a consolidated group immediately before it transfers deposit liabilities to a Bridge Bank, the Bridge Bank succeeds to the Institution's status as the common parent or, unless an election is made pursuant to paragraph (g) of this section,

as a subsidiary of the group. If a Bridge Bank succeeds to an Institution's status as a subsidiary, its stock is treated as held by the shareholders of the transferring Institution, and the stock basis or excess loss account of the Institution carries over to the Bridge Bank. A Bridge Bank is treated as owning stock owned by its associated Residual Entity, including for purposes of determining membership in an affiliated group.

(2) *No 30-day election to be excluded from consolidated group.* Neither an Institution nor any of its Consolidated Subsidiaries may be excluded from a consolidated group for a taxable year pursuant to § 1.1502-76(b)(5)(ii) if the Institution is under Agency control at any time during the year.

(3) *Coordination with consolidated return regulations.* The provisions of the regulations under section 597 take precedence over conflicting provisions in the regulations under section 1502.

(g) *Elective disaffiliation—(1) In general.* A consolidated group of which an Institution is a subsidiary may elect irrevocably pursuant to this paragraph (g) not to include the Institution in its affiliated group under the circumstances described in this paragraph (g). If an election is made pursuant to this paragraph (g), the consolidated group must include in income the amount described in paragraph (g)(4) of this section. (See paragraph (g)(6) of this section for circumstances under which a consolidated group is deemed to make this election.)

(2) *Events permitting election—(i) In general.* A consolidated group may make an election under this paragraph (g) with respect to a subsidiary Institution placed in Agency receivership (whether or not assets or deposit liabilities of the Institution are transferred to a Bridge Bank).

(ii) *Consistency.* A consolidated group may make the election provided by this paragraph (g)(2) with respect to a subsidiary Institution placed in Agency receivership only if it is—

(A) The first subsidiary Institution of the group placed in Agency receivership on or after May 10, 1989, and it is placed in Agency receivership on or after April 22, 1992; or

(B) One of two or more subsidiary Institutions of the group simultaneously placed in Agency receivership, those Institutions are the first subsidiary Institutions of the group placed in Agency receivership on or after May 10, 1989, and those Institutions are placed in Agency receivership on or after April 22, 1992.

An election pursuant to this paragraph (g) applies to the Institution with respect to which the election is made or deemed made and each subsidiary Institution of the group simultaneously or subsequently placed in Agency receivership. (See § 1.597-7(c) for rules concerning the availability of the election if a subsidiary Institution has been placed in Agency receivership prior to April 22, 1992).

(3) *Consequences of election.* If the election pursuant to this paragraph (g) is made with respect to an Institution, the following consequences occur immediately before the subsidiary Institution to which the election applies is placed in Agency receivership (or, in the case of a deemed election under paragraph (g)(6) of this section, immediately before the deconsolidation or the transfer of deposit liabilities) and in the following order—

(i) All adjustments of the Institution and its Consolidated Subsidiaries under section 481 are accelerated;

(ii) Deferred intercompany gains and losses with respect to the Institution and its Consolidated Subsidiaries are restored;

(iii) The taxable year of the Institution and its Consolidated Subsidiaries closes;

(iv) The members owning the common stock of the Institution include the amount described in paragraph (g)(4) of this section in income in proportion to their common stock ownership;

(v) The amount described in paragraph (g)(4) of this section is included in the earnings and profits of the Institution for the taxable year that closes pursuant to paragraph (g)(3)(iii) of this section (and, except as provided in § 1.1502-33(c)(4), is not included in the earnings and profits of the members owning the common stock of the Institution); and

(vi) The members of the consolidated group are treated as having disposed of their stock in the Institution (including for purposes of § 1.1502-19).

(4) *Toll charge.*—(i) *Amount.* The amount described in this paragraph (g)(4) is the excess of the Institution's liabilities over the adjusted bases of its assets immediately before the Institution is placed in Agency receivership (or, in the case of a deemed election under paragraph (g)(6) of this section, immediately before the deconsolidation or the transfer of deposit liabilities). In computing this amount, the adjusted bases of an Institution's assets are reduced by the amount of the Institution's reserves for bad debts under section 585 or 593, other than supplemental reserves under section 593. For purposes of this paragraph

(g)(4), an "Institution" is treated as a single entity that includes the assets and liabilities of its Consolidated Subsidiaries, with appropriate adjustments to prevent duplication.

(ii) *Anti-abuse rule.* In the case of a transaction that distorts the application of this paragraph (g)(4), the Commissioner may make adjustments to the extent necessary to carry out the purposes of section 597.

(5) *Affirmative election.* Except as provided in paragraph (g)(6) of this section, a consolidated group makes the election provided by this paragraph (g) by sending a written statement by certified mail to the affected Institution within 120 days of the later of its placement in Agency receivership and [insert the date final regulations under section 597 are filed with the Federal Register]. The statement must contain the following legend at the top of the page: "THIS IS AN ELECTION PURSUANT TO § 1.597-4(g) TO EXCLUDE THE BELOW-REFERENCED INSTITUTION AND CONSOLIDATED SUBSIDIARIES FROM THE AFFILIATED GROUP," and must include the names and taxpayer identification numbers of the common parent and of the Institution and Consolidated Subsidiaries to which the election applies, and the date on which the Institution was placed in Agency receivership. The statement must be signed by an individual who states under penalties of perjury that he or she is authorized to make the election on behalf of the consolidated group. The consolidated group must send a similar statement to all other subsidiary Institutions simultaneously or subsequently placed in Agency receivership. (Failure to satisfy the requirement in the preceding sentence, however, does not invalidate the election.) The consolidated group must include a copy of the statement and of the certified mail receipt as part of its income tax return for the taxable year of the relevant event. Agency cannot make this election.

(6) *Deemed Election.*—(i) *Deconsolidations in contemplation.* If one or more members of a consolidated group deconsolidate a subsidiary Institution in contemplation of Agency Control or the receipt of FFA, the consolidated group is deemed to make the election described in this paragraph (g) with respect to the Institution on the date the deconsolidation occurs. A subsidiary Institution is conclusively presumed to have been deconsolidated in contemplation of Agency Control or the receipt of FFA if either event occurs within six months after the deconsolidation.

(ii) *Transfers to a Bridge Bank from multiple groups.* On the day an Institution's transfer of deposit liabilities to a Bridge Bank would result in the Bridge Bank holding deposit liabilities from both a subsidiary Institution and an Institution not included in the subsidiary Institution's consolidated group, each consolidated group of which a transferring Institution or the Bridge Bank is a subsidiary is deemed to make the election described in this paragraph (g) with respect to its subsidiary Institution. If deposit liabilities of another subsidiary Institution subsequently are transferred to the Bridge Bank, the consolidated group of which the Institution is a subsidiary is deemed to have made the election described in this paragraph (g) with respect to that Institution at the time of the subsequent transfer.

(7) *Treatment of Institutions after disaffiliation.*—(i) *In general.* If the election pursuant to this paragraph (g) is made with respect to an Institution, immediately after the Institution is placed in Agency receivership (or, in the case of a deemed election under paragraph (g)(6) of this section, immediately after the deconsolidation or the transfer of deposit liabilities), the Institution and each of its Consolidated Subsidiaries are treated for income tax purposes as new corporations that are not members of the electing group's affiliated group. Each new corporation retaining the TIN of the corresponding disaffiliated corporation and is treated as having received the assets and liabilities of the corresponding disaffiliated corporation in a transaction to which section 351 applies (and in which no gain was recognized under section 357(c) or otherwise). Thus, the new corporation has no net operating or capital loss carryforwards. An election pursuant to this paragraph (g) does not terminate the single entity treatment of a Bridge Bank and its Residual Entities provided in paragraph (e) of this section.

(ii) *FFA.* A new Institution is treated as having a noninterest bearing, nontransferable account receivable for future FFA with a basis equal to the amount described in paragraph (g)(4) of this section. If a disaffiliated Institution has a deferred FFA account at the time of its disaffiliation, the corresponding new Institution succeeds too and takes into account that deferred FFA account.

(iii) *Filing of consolidated returns.* If a disaffiliated Institution has Consolidated Subsidiaries at the time of its disaffiliation, the corresponding new Institution is required to file a consolidated income tax return with the

subsidiaries in accordance with the regulations under section 1502.

(iv) *Status as Institution.* If an Institution is disaffiliated under this paragraph (g), the resulting new corporation is treated as an Institution for purposes of the regulations under section 597 regardless of whether it is a bank or domestic building and loan association within the meaning of section 597.

(v) *Loss carrybacks.* To the extent a carryback of losses would result in a refund being paid to a fiduciary under section 6402(i), an Institution or Consolidated Subsidiary with respect to which an election under this paragraph (g) is made is allowed to carry back losses as if the Institution or Consolidated Subsidiary had continued to be a member of the consolidated group that made the election.

(8) *Designation of additional disaffiliation events.* The Commissioner may, by publication of a revenue procedure, designate additional events permitting an election, or causing a deemed election, under this paragraph (g).

(h) *No duplication of tax items or attributes.* The provisions of this section shall not be construed to permit the duplication of tax items or attributes.

(i) *Examples.* The following examples illustrate the provisions of this section:

Facts. Corporation X, the common parent of a consolidated group, owns all the stock (with a basis of \$4 million) of Institution M, an insolvent Institution with no Consolidated Subsidiaries. At the close of business on April 30, 1992, M has \$4 million of deposit liabilities, \$1 million of other liabilities, and assets with an adjusted basis of \$4 million and a fair market value of \$3 million.

Example 1. Effect of receivership on consolidation. On May 1, 1992, Agency places M in receivership and begins liquidating M. X does not make an election under § 1.597-4(g). M remains a member of the X consolidated group after May 1, 1992. Section 1.597-2(f)(1).

Example 2. Effect of Bridge Bank on consolidation. (i) On May 1, 1992, Agency places M in receivership and causes M to transfer all of its assets and deposit liabilities to Bridge Bank MB. M recognizes no gain or loss from the transfer and MB succeeds to M's basis in the transferred assets, M's items described in section 381(c) (subject to the conditions and limitations specified in sections 381(b)(3) and 381(c)) and TIN. Section 1.597-4(d)(1). (If M had a deferred FFA account, MB would also succeed to that account. Section 1.597-4(d)(1).) MB continues M's taxable year and succeeds to M's status as a member of the X consolidated group after May 1, 1992. Sections 1.597-4(d)(1) and (f). MB and M are treated as a single entity for income tax purposes. Section 1.597-2(e).

(ii) On July 1, 1992, X makes an election under § 1.597-4(g) with respect to M. X must include \$1 million (\$5 million of liabilities-\$4 million of adjusted basis) in income as of

May 1, 1992 and increase its basis in its M stock by \$1 million. Section 1.597-4(g)(3). Immediately after including the \$1 million in its income, X is treated as having disposed of its M stock. M is then treated as a new corporation that is not a member of the X consolidated group and that has assets (including a \$1 million account receivable for future FFA) with a basis of \$5 million and \$5 million of liabilities received from disaffiliated corporation M in a section 351 transaction. New corporation M retains the TIN of the disaffiliated corporation M. Section 1.597-4(g)(7). Immediately after the disaffiliation, new corporation M is treated as transferring its assets and deposit liabilities to Bridge Bank MB. New corporation M recognizes no gain or loss from the transfer and MB succeeds to M's TIN and taxable year. Section 1.597-4(d)(1). Bridge Bank MB is treated as a single entity that includes M and has \$5 million of liabilities, an account receivable for future FFA with a basis of \$1 million, and other assets with a basis of \$4 million. Section 1.597-4(d)(1).

§ 1.597-5 Taxable Transfers.

(a) *Overview—transfer.* This section provides rules governing Taxable Transfers, as defined in § 1.597-5(a)(2). The purpose of these rules is to treat acquisitions of Institutions under Agency Control as taxable asset acquisitions whether the acquisition is in the form of an asset purchase, a stock purchase or a carryover basis transaction. A third party's assumption of deposit liabilities of an Institution under Agency Control (even if no assets are actually transferred by the Institution) is treated as a taxable asset acquisition, unless the third party assuming the deposit liabilities is a Bridge Bank.

(2) *Taxable Transfer defined.* The term "Taxable Transfer" means—

(i) A transaction in which an Institution under Agency Control transfers any deposit liability (whether or not the Institution also transfers assets) to a transferee other than a Bridge Bank; or

(ii) A deemed transfer of assets described in paragraph (b) of this section.

Rules applicable to both actual and deemed asset acquisitions are provided in paragraphs (c) and (d) of this section. Special rules applicable only to deemed asset acquisitions are provided in paragraph (e) of this section.

(b) *Deemed asset acquisitions upon stock purchase—(1) In general.* An Institution (including a Bridge Bank or a Residual Entity) or a Consolidated Subsidiary of the Institution ("Old Entity") as selling all of its assets in a single transaction and is treated as a new corporation (the "New Entity") that purchases all of the Old Entity's assets at the close of the day immediately

preceding the first day, during a period of Agency Control, that—

(i) The Old Entity ceases (other than pursuant to an election under § 1.597-4(g)) to be a member of its consolidated group;

(ii) The Old Entity becomes a member of an affiliated group other than the affiliated group of which it is a member immediately before the commencement of Agency Control; or

(iii) 50 percent or more (by vote or value) of the stock of the Old Entity (other than stock described in section 1504(a)(4) or stock owned by Agency or an entity under Agency Control) is owned directly or indirectly, or through related persons within the meaning of section 267(b), by persons other than the persons that owned the stock, directly or indirectly, or through related persons within the meaning of section 267(b), immediately before the commencement of Agency Control.

For purposes of this paragraph (b)(1), if an event described in paragraph (b)(1) (i), (ii), or (iii) of this section results from an agreement arising while the Institution was under Agency Control or occurs while the Institution has a positive balance in a deferred FFA account, the event is treated as occurring during a period of Agency Control.

(2) *Agency Control or Consolidated Subsidiaries.* For purposes of applying paragraph (b) (1) of this section if an Institution is under Agency Control or has a positive balance in its deferred FFA account, its Consolidated Subsidiaries under Agency Control.

(3) *Bridge Banks and Residual Entities.* If a Bridge Bank is treated as selling all of its assets to a new Entity pursuant to this paragraph (b), each associated Residual Entity is treated as simultaneously selling its assets to a New Entity in a Taxable Transfer described in paragraph (b) of this section.

(c) *Treatment of transferor—(1) FFA in connection with a Taxable Transfer.* A transferor in a Taxable Transfer is treated as having directly received immediately before a Taxable Transfer any Net Worth Assistance that Agency provides to the New Entity or Acquiring in connection with the transfer. (See § 1.597-2(a)(1) for related rules regarding FFA provided to shareholders.) The Net Worth Assistance is treated as an asset of the transferor that is sold to the New Entity or Acquiring in the Taxable Transfer.

(2) *Amount realized in a Taxable Transfer.* In a Taxable Transfer described in paragraph (a)(2)(i) of this section, the amount realized is

determined under section 1001(b) by reference to the consideration paid for the assets. In a Taxable Transfer described in paragraph (a)(2)(ii) of this section, the amount realized is the sum of the grossed-up basis of the stock acquired in connection with the Taxable Transfer (excluding stock acquired from the Old or New Entity), plus the amount of liabilities assumed or taken subject to in the deemed transfer, plus other relevant items. The grossed-up basis of the acquired stock equals the acquirors' basis in the acquired stock divided by the percentage of the Old Entity's stock (by value) attributable to the acquired stock.

(3) *Allocation of amount realized*—(i) *In general.* The amount realized under paragraph (c)(2) of this section is allocated among the assets transferred in the Taxable Transfer in the same manner as amounts are allocated among assets under §§ 1.338(b)-2T(b), (c)(1), and (c)(2).

(ii) *Modifications to general rule.* This paragraph (c)(3)(ii) modifies certain of the allocation rules of paragraph (c)(3)(i) of this section. Agency Obligations and assets covered by Loss Guarantees in the hands of the New Entity or Acquiring are treated as Class II assets. Stock of a Consolidated Subsidiary is treated as a Class II asset to the extent the fair market value of the Consolidated Subsidiary's Class I and Class II assets exceeds the amount of its liabilities. The fair market value of an Agency Obligation is deemed to equal its adjusted issue price immediately before the Taxable Transfer. The fair market value of an asset covered by a Loss Guarantee immediately after the Taxable Transfer is deemed to be not less than the greater of the asset's highest guaranteed value or the highest price at which the asset can be put.

(d) *Treatment of New Entity and Acquiring*—(1) *Purchase Price.* The purchase price for assets acquired in a Taxable Transfer described in paragraph (a)(2)(i) of this section is the cost of the assets acquired. See § 1.1060-1T(c)(1). The purchase price for assets acquired in a Taxable Transfer described in paragraph (a)(2)(ii) of this section is the sum of the grossed-up basis of the stock acquired in connection with the Taxable Transfer (excluding stock acquired from the Old or New Entity), plus the amount of liabilities assumed or taken subject to in the deemed transfer, plus other relevant items. The grossed-up basis of the acquired stock equals the acquirors' basis in the acquired stock divided by the percentage of the Old Entity's stock (by value) attributable to the acquired

stock. FFA provided in connection with a Taxable Transfer is not included in the New Entity's or Acquiring's purchase price for the acquired assets. Any Net Worth Assistance so provided is treated as an asset of the transferor sold to the New Entity or Acquiring in the Taxable Transfer.

(2) *Allocation of basis*—(i) *In general.* Except as otherwise provided in this paragraph (d)(2), the purchase price determined under paragraph (d)(1) of this section is allocated among the assets transferred in the Taxable Transfer in the same manner as amounts are allocated among assets under §§ 1.338(b)-2T(b), (c)(1) and (c)(2).

(ii) *Modifications to general rule.* The allocation rules contained in paragraph (c)(3)(ii) of this section apply to the allocation of basis among assets acquired in a Taxable Transfer. No basis is allocable to Agency's agreement to provide Loss Guarantees, yield maintenance payments, cost to carry or cost of funds reimbursement payments, or expense reimbursement or indemnity payments. A New Entity's basis in assets it receives from its shareholders is determined under general principles of income taxation and is not governed by this paragraph (d).

(iii) *Allowance and recapture of additional basis in certain cases.* If the fair market value of the Class I and Class II assets acquired in a Taxable Transfer is greater than the New Entity's or Acquiring's purchase price for the acquired assets, the basis of the Class I and Class II assets equals their fair market value. The amount by which the fair market value of the Class I and Class II assets exceeds the purchase price is included ratably in income by the New Entity or Acquiring over a period of six taxable years beginning in the year of the Taxable Transfer. The New Entity or Acquiring must include in income the entire amount remaining to be recaptured under the preceding sentence in the taxable year in which an event occurs that would accelerate inclusion of an adjustment under section 481.

(iv) *Certain post-transfer adjustments*—(A) *Agency Obligations.* If an adjustment to the principal amount of an Agency Obligation or cash payment to reflect a more accurate determination of the condition of the Institution at the time of the Taxable Transfer is made before the earlier of the date of the New Entity or Acquiring files its first post-transfer income tax return or the due date of that return (including extensions), the New Entity or Acquiring must adjust its basis in its acquired assets to reflect the adjustment. In

making adjustments to the New Entity's or Acquiring's basis in its acquired assets, paragraph (c)(3)(ii) of this section is applied by treating an adjustment to the principal amount of an Agency Obligation pursuant to the first sentence of this paragraph (d)(2)(iv)(A) as occurring immediately before the Taxable Transfer. (See § 1.597-3(c)(3) for rules regarding other adjustments to the principal amount of an Agency Obligation.)

(B) *Assets covered by a Loss Guarantee.* If, immediately after a Taxable Transfer, an asset is not covered by a Loss Guarantee by the New Entity or Acquiring has the right to designate specific assets that will be covered by a Loss Guarantee, the New Entity or Acquiring must treat any asset so designated as having been subject to the Loss Guarantee at the time of the Taxable Transfer. The New Entity or Acquiring must adjust its basis in the covered assets and in its other acquired assets to reflect the designation in the manner provided by paragraph (d)(2) of this section. The New Entity or Acquiring must make appropriate adjustments in subsequent taxable years if the designation is made after the New Entity or Acquiring files its first post-transfer income tax return or the due date of that return (including extensions) has passed.

(e) *Special rules applicable to Taxable Transfers that are deemed asset acquisitions*—(1) *Taxpayer identification numbers.* Except as provided in paragraph (e)(4) of this section, a New Entity succeeds to the TIN of the transferor in a deemed sale under paragraph (b) of this section.

(2) *Treatment of shareholders.* Members of a consolidated group treated under § 1.597-4(f)(1) as owning canceled or Bridge Bank stock in an Old Entity are treated as having disposed of that stock at the time of the event described in paragraph (b)(1) of this section that gives rise to a Taxable Transfer.

(3) *Consolidated Subsidiaries.* A Consolidated Subsidiary that is treated as selling its assets in a Taxable Transfer under paragraph (b) of this section is treated as engaging immediately thereafter in a complete liquidation to which section 332 applies. The consolidated group of which the Consolidated Subsidiary is a member does not take into account gain or loss on the sale, exchange, or cancellation of stock of the Consolidated subsidiary in connection with the Taxable Transfer.

(4) *Bridge Banks and Residual Entities.* A Bridge Bank or Residual Entity's sale of assets to a New Entity

pursuant to paragraph (b) of this section is treated as made by a single entity pursuant to § 1.597-4(e). The New Entity deemed to acquire the assets of a Residual Entity under paragraph (b) of this section is not treated as a single entity with the Bridge Bank (or with the New Entity acquiring the Bridge Bank's assets) and must obtain a new TIN.

(5) *Certain returns.* If an Old Entity is not a subsidiary of a consolidated group at the time of the Taxable transfer, the controlling Agency must file all income tax returns for the Old Entity for periods ending on or prior to the date of the event described in paragraph (b)(1) of this section that gives rise to the Taxable Transfer that are not filed as of that date.

(6) *Anti-abuse rule.* The Commissioner may make appropriate adjustments under paragraph (c) and (d) of this section if using a grossed-up basis of the stock of a corporation results in an aggregate amount realized for or basis in the assets other than the aggregate fair market value of the assets. This paragraph (e)(6) does not apply if all of the stock of the corporation is acquired on the date of the Taxable Transfer.

(f) *Examples.* The following examples illustrate the provisions of this section:

Example 1. Branch sale resulting in Taxable Transfer. (i) Institution M is a calendar year taxpayer in Agency receivership. M is not a member of a consolidated group. On January 1, 1993, M has \$200 million of liabilities (including deposit liabilities) and assets with an adjusted basis of \$100 million. M has no income or loss for 1993 and, except as described below, receives no FFA. On September 30, 1993, Agency causes M to transfer six branches (in whose assets M has an adjusted basis of \$1 million) together with \$120 million of deposit liabilities to N. In connection with the transfer, Agency provides \$121 million in cash to N.

(ii) The transaction is a Taxable Transfer in which M receives \$121 million of Net Worth Assistance. Section 1.597-5(a)(1). (M is treated as directly receiving the \$121 million of New Worth Assistance immediately before the Taxable Transfer. Section 1.597-5(c)(1).) M transfers branches having a basis of \$1 million and is treated as transferring \$121 million in cash (the New Worth Assistance) to N in exchange for N's assumption of \$120 million of liabilities. Thus, M realizes a loss of \$2 million on the transfer. The amount of the FFA M must include in its income in 1993 is limited by § 1.597-2(c) to \$102 million, which is the sum of the \$100 million excess of M's liabilities (\$200 million) over the total adjusted basis of its assets (\$100 million) at the beginning of 1993, plus the \$2 million excess for the taxable year, which results from the Taxable Transfer, of M's deductions (other than carryovers) over its gross income other than FFA. M must establish a deferred FFA account for the remaining \$19 million of FFA. Section 1.597-2(c)(4).

(iii) N, as Acquiring, must allocate its \$120 million purchase price for the assets acquired from M among those assets. Cash is a Class I asset. The branch assets are in Classes III and IV. N's adjusted basis in the cash is its amount, i.e., \$121 million. Section 1.597-5(d)(2). Because this amount exceeds N's purchase price for all of the acquired assets by \$1 million, N allocates no basis to the other acquired assets and, under § 1.597-5(d)(2), must recapture the \$1 million excess at an annual rate of \$166,667 in the six consecutive taxable years beginning with 1993 (subject to acceleration for certain events).

Example 2. Stock issuance by Bridge Bank causing Taxable Transfer. (i) On April 1, 1992, Institution P is placed in receivership and cause to transfer assets and liabilities to Bridge Bank PB. On August 31, 1992, the assets of PB consist of \$20 million in cash, loans outstanding with an adjusted basis of \$50 million and a fair market value of \$40 million, and other non-financial assets (primarily branch assets and equipment) with an adjusted basis on \$5 million. PB has deposit liabilities of \$95 million and other liabilities of \$5 million. P, the Residual Entity, holds real estate with an adjusted basis of \$10 million and claims in litigation having a zero basis. P retains no deposit liabilities and has no other liabilities (except its liability to Agency for having caused its deposit liabilities to be satisfied).

(ii) On September 1, 1992, Agency causes PB to issue 100 percent of its common stock for \$2 million cash to X, a corporation unrelated to any former shareholder of P. On the same day, Agency issues a \$25 million note to PB. The note bears a fixed rate of interest in excess of the applicable federal rate in effect for September 1, 1992. Agency provides Loss Guarantees guaranteeing PB a value of \$50 million for PB's loan outstanding.

(iii) The stock issuance is a Taxable Transfer in which PB is treated as selling all of its assets to a new corporation, New PB. Section 1.597-5(b)(1). PB is treated as directly receiving \$25 million of Net Worth Assistance (the issue price of the Agency Obligation) immediately before the Taxable Transfer. Section 1.597-5(c)(2); § 1.597-5(c)(1). PB in turn is deemed to transfer the note to New PB in the Taxable Transfer, together with \$20 million of cash, all its loans outstanding (with a basis of \$50 million) and its other non-financial assets (with a basis of \$5 million). The amount realized by PB from the sale is \$100 million, the amount of PB's liabilities deemed to be assumed by New PB. This amount realized equals PB's aggregate basis in its assets and thus, PB realizes no gain or loss on the transfer to New PB.

(iv) Residual Entity P also is treated as selling all its assets (consisting of real estate and claims in litigation) for \$0 (the amount of consideration received by P) to a new corporation (New P) in a Taxable Transfer. Section 1.597-5(b)(3). (P's only liability is to Agency and a liability to Agency is not treated as a debt under § 1.597-3(b).) Thus, P realizes a \$10 million loss on the transfer to New P. The combined return filed by PB and P for 1992 will reflect a total loss on the Taxable Transfer of \$10 million (\$0 for PB and \$10 million for P). Section 1.597-5(e)(4).

(v) New PB is treated as having acquired the assets it acquired from PB for \$100 million, the amount of liabilities assumed. In allocating basis among these assets, New PB treats the Agency note and the loans outstanding (which are covered by Loss Guarantees) as Class II assets. For the purpose of allocating basis, the fair market value of the Agency note is deemed to equal its adjusted issue price immediately before the transfer, \$25 million. The fair market value of the loans is deemed not to be less than the guaranteed value of \$50 million.

(vi) New P is treated as having acquired its assets for no consideration. Thus its basis in its assets immediately after the transfer is zero. New PB and New P are not treated as a single entity. Section 1.597-5(e)(4).

Example 3. Taxable Transfer of previously disaffiliated Institution. (i) Corporation X, the common parent of a consolidated group, owns all the stock of Institution M, an insolvent Institution with no consolidated Subsidiaries. On April 30, 1992, M has \$4 million of deposit liabilities, \$1 million of other liabilities, and assets with an adjusted basis of \$4 million and a fair market value of \$3 million. On May 1, 1992, Agency places M in receivership. X elects under § 1.597-4(g) to disaffiliate M. Accordingly, as of May 1, 1992, new corporation M is not a member of the X consolidated group and has \$5 million of liabilities, an account receivable for future FFA with a basis of \$1 million, and other assets with a basis of \$4 million.

(ii) During May, 1992, M earns \$25,000 of interest income and accrues \$20,000 of interest expense on depositor accounts and there is no net change in deposits other than the additional \$20,000 of interest accrued on depositor accounts. M has \$5000 of wage expenses and no other items of income or expense.

(iii) On June 1, 1992, Agency causes M to issue 100 percent of its stock to corporation Y, a corporation unrelated to X. In connection with the stock issuance, Agency provides an Agency Obligation for \$2 million and no other FFA.

(iv) The stock issuance is a Taxable Transfer. Section 1.597-5(b)(1)(iii). M is treated as receiving the Agency Obligation immediately prior to the Taxable Transfer. Section 1.597-5(c)(1). M has \$1 million of basis in its account receivable for FFA which offsets \$1 million of the \$2 million of FFA provided by Agency in connection with the Taxable transfer. Pursuant to § 1.597-5(c)(2), Old Entity M is treated as selling, to New Entity M, all of Old Entity M's assets, having a basis of \$6,020,000, for \$5,020,000, the amount of Old Entity M's liabilities assumed by New Entity M pursuant to the Taxable Transfer. Therefore, Old Entity M recognizes a loss of \$1 million from the Taxable Transfer. In addition, because this \$1 million loss causes Old Entity M's deductions to exceed its gross income (determined without regard to FFA) by \$1 million, Old Entity M must include in its income the \$1 million of FFA not offset by the FFA receivable. Section 1.597-2(c). One million dollars equals the sum of (A) the excess as of May 1, 1992 of its liabilities over the adjusted bases of its assets (\$5,000,000 — \$5,000,000 = \$0), plus (B)

the excess of its deductions over its gross income (disregarding FFA) for the taxable year (\$1,025,000 - \$25,000 = \$1,000,000). Therefore, Old Entity M's taxable income for the taxable year ending on the date of the Taxable Transfer is \$0.

(v) Pursuant to § 1.597-5(d)(1), New Entity M is treated as purchasing Old Entity M's assets for \$5,020,000, the amount of New Entity M's liabilities. Of this, \$2,000,000 is allocated to the \$2 million Agency Obligation, and \$3,020,000 is allocated to the other assets New Entity M is treated as purchasing in the Taxable Transfer.

§ 1.597-6 Limitation on collection of income tax.

(a) *Limitation on collection where tax is borne by Agency.* If an Institution without Continuing Equity (or any of its Consolidated Subsidiaries) is liable for income tax that is attributable to the inclusion in income of FFA or gain from a Taxable Transfer, the tax will not be collected if it would be borne by Agency. The final determination of whether the tax would be borne by Agency is within the sole discretion of the Commissioner. In determining whether tax would be borne by Agency, the commissioner will disregard indemnity, tax-sharing, or similar obligations of Agency, an Institution, or its Consolidated Subsidiaries. Collection of the several income tax liability from members of an Institution's consolidated group other than the Institution or its Consolidated Subsidiaries is not affected by this section. Income tax will continue to be subject to collection except as specifically limited in this section. This section does not apply to taxes other than the income tax.

(b) *Amount of tax attributable to FFA or gain on a Taxable Transfer.* For purposes of paragraph (a) of this section, the amount of income tax attributable in a taxable year to the inclusion of FFA or gain from a Taxable Transfer in the income of an Institution (or a Consolidated Subsidiary) is the excess of—

(1) The actual income tax liability of the Institution (or the consolidated group in which the Institution is a member), over

(2) The income tax liability of the Institution (or the consolidated group in which the Institution is a member) determined without regard to FFA or gain or loss on the Taxable Transfer.

(c) *Reporting of uncollected tax.* A taxpayer must specify on the front page of Form 1120 (U.S. Corporate Income Tax Return), to the left of the space provided for "Total Tax," the amount of income tax for the taxable year that is potentially not subject to collection pursuant to this section. If an Institution is a subsidiary member of a

consolidated group, the amount specified as not subject to collection is zero.

(d) *Assessments of tax to offset refunds.* Income tax that is not collected pursuant to this § 1.597-6 will be assessed and used to offset any claim for refund made by or on behalf of the Institution, the Consolidated Subsidiary or any other corporation with several liability for the tax.

(e) *Collection of taxes from New Entity or Acquiring.* No income tax liability (including the several liability for taxes under § 1.1502-6) of a transferor in a Taxable Transfer will be collected from the New Entity or Acquiring unless one or more persons who owned, directly or indirectly, or through related persons within the meaning of section 267(b), five percent or more (by vote or value) of the transferor's stock at any time during the two-year period before the Institution was placed under Agency Control or first received FFA (whichever is earlier), own, directly or indirectly, or through related persons within the meaning of section 267(b), five percent or more (by vote or value) of the New Entity's or Acquiring's stock at any time after the Taxable Transfer.

§ 1.597-7 Effective date.

(a) *General effective date.* Section 597, as amended by section 1401 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 ("FIRREA"), Public Law 101-73, is generally effective for any FFA received or accrued by an Institution on or after May 10, 1989, unless the FFA is provided in connection with an acquisition occurring prior to May 10, 1989. Sections 1.597-1 through 1.597-6 apply to taxable years ending on or after April 22, 1992, of any taxpayer that receives or accrues FFA to which section 597, as amended by FIRREA, applies.

(b) *Transitional rules—(1) In general.* The provisions of §§ 1.597-1 through 1.597-6 do not apply to FFA described in paragraph (b)(2) (i) or (ii) of this section.

(2) *Prior taxable years and acquisitions.* If FFA to which section 597, as amended by FIRREA, applies is received or accrued—

(i) For taxable years ending before April 22, 1992; and

(ii) For FFA received or accrued for taxable years ending after April 22, 1992, in connection with an Agency assisted acquisition within the meaning of notice 89-102, 1989-2 C.B. 436 (which does not include a transfer to a Bridge Bank) that occurs before April 22, 1992.

Taxpayers not subject to §§ 1.597-1 through 1.597-6 must comply with an interpretation of the statute that is

reasonable in light of the legislative history and applicable administrative pronouncements. For this purpose, the rules contained in notice 89-102 apply to the extent provided in the notice.

(c) *Elective application to prior transactions.—(1) Conditions of election.* An Institution that was not a subsidiary member of a consolidated group, or, if the Institution is or was a subsidiary member of a consolidated group, the consolidated group may elect to apply §§ 1.597-1 through 1.597-6 to all taxable years to which section 597, as amended by FIRREA, applies, including all taxable years ending before April 22, 1992, in which the Institution received or accrued FFA to which section 597, as amended by FIRREA, applies, and to all FFA received or accrued on or after April 22, 1992, in connection with an Agency assisted acquisition that occurs before April 22, 1992. This election cannot be made unless the period for assessment and collection of tax has not expired pursuant to the rules of section 6501 for the first taxable year in which an Institution received or accrued FFA to which section 597, as amended by FIRREA, applies and all subsequent taxable years. This election is irrevocable. If one or more persons who owned, directly or indirectly, or through related persons within the meaning of section 267(b), five percent or more (by vote or value) of the transferor's stock immediately before the Taxable Transfer own, directly or indirectly, or through related persons within the meaning of section 267(b), five percent or more (by vote or value) of the New Entity's or Acquiring's stock immediately after the Taxable Transfer, an election may not be made with respect either to the transferor or to the New Entity or Acquiring unless both parties make the election.

(2) *Exceptions to retroactive application—(i) No section 338 election under notice 89-102.* An election under this paragraph to apply §§ 1.597-1 through 1.597-6 cannot be made with respect to an Institution if, under notice 89-102, it was a Target with respect to which a qualified stock purchase was made, a timely election under section 338 was not made, and on April 22, 1992, a timely election under section 338 could not be made.

(ii) *Disaffiliation.* If a subsidiary Institution was placed in Agency receivership before April 22, 1992, the consolidated group of which the subsidiary Institution was a member may make the election provided by § 1.597-4(g)(2) with respect to subsidiary Institutions placed in Agency

receivership only if the group makes the election under this paragraph (c).

(3) *Procedural rules.* An Institution or consolidated group makes the election provided by this paragraph (c) by attaching a written statement to, and including it as a part of, the taxpayer's or consolidated group's first annual income tax return filed after [insert the date final regulations under section 597 are filed with the Federal Register]. The statement must contain the following legend at the top of the page: "THIS IS AN ELECTION UNDER § 1.597-7(c)," and must contain the name, address and employer identification number of the taxpayer or common parent making the election. The statement must include a declaration that "TAXPAYER AGREES TO EXTEND THE STATUTE OF LIMITATIONS ON ASSESSMENT FOR THREE YEARS FROM THE DATE OF THE FILING OF THIS ELECTION UNDER § 1.597-7(c), IF THE LIMITATIONS PERIOD WOULD EXPIRE EARLIER WITHOUT SUCH EXTENSION, FOR ANY TAXABLE YEAR AFFECTED BY THE FILING OF THIS ELECTION," and a declaration that either "AMENDED RETURNS WILL BE TIMELY FILED FOR ALL TAXABLE YEARS AFFECTED BY THE FILING OF THIS ELECTION, UNLESS SUCH REQUIREMENT IS WAIVED IN WRITING BY THE DISTRICT DIRECTOR OR HIS DELEGATE" or "ALL RETURNS PREVIOUSLY FILED ARE CONSISTENT WITH THE PROVISIONS OF §§ 1.597-1 THROUGH 1.597-6", and be signed by an individual who states under penalties of perjury that he or she is authorized to make the election under this paragraph (c) on behalf of the taxpayer. An election with respect to a consolidated group must be made by the common parent of the group, not Agency, and applies to all members of the group.

PART 301—PROCEDURE AND ADMINISTRATION

Par. 3. The authority for part 301 is amended by adding the following citation:

Authority: Sec. 7805, 68A Stat. 917; 26 U.S.C. 7805 * * * Section 301.7507-1 also issued under 26 U.S.C. 597. Section 301.7507-9 also issued under 26 U.S.C. 597. * * *

Par. 4. Section 301.7507-1 is amended by adding paragraph (b)(4) to read as follows:

§ 301.7507-1 Banks and trust companies covered.

* * * * *

(b) * * *

(4) The term "ceased to do business" means the bank no longer accepts

deposits or makes loans and discounts, and is winding up its affairs and is in the process of liquidating its assets to pay depositors. A bank will not be considered to have ceased to do business on account of a transaction in which the bank—

(i) Transfers assets and liabilities to a Bridge Bank in a transfer described in § 1.597-4;

(ii) Transfers assets and liabilities to any person in a transaction to which section 381(a) applies;

(iii) Transfers assets or liabilities to any person in a transaction in which Federal Financial Assistance (as defined in section 597) is provided to any party to the transaction, unless all the Federal Financial Assistance is deposit insurance under § 301.7507-9(d); or

(iv) Transfers assets or liabilities to any person in a transaction similar to any transaction described in paragraphs (b)(4) (i) through (iii) of this section. This paragraph (b)(4) applies to taxable years ending on or after April 22, 1992.

Par. 5. Section 301.7507-9 is amended by adding a sentence to the end of paragraph (d) to read as follows:

§ 301.7507-9 Termination of immunity.

(d) * * * For taxable years ending on or after April 22, 1992, deposit insurance does not include Federal Financial Assistance (as defined in section 597) and other payments described in section 597(a) prior to its amendment by the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 and, therefore, such payments must be taken into account to determine whether a bank's assets are sufficient to meet claims of depositors.

David G. Blattner,
Acting Commissioner of Internal Revenue.
[FR Doc. 92-8637 Filed 4-22-92; 8:45 am]
BILLING CODE 4830-01-M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 917

Kentucky Permanent Regulatory Program; Fish and Wildlife Resources

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Proposed rule.

SUMMARY: OSM is announcing the receipt of revisions to a previously proposed program amendment to the Kentucky permanent regulatory program

(hereinafter referred to as the Kentucky program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). By a letter dated March 13, 1992, (Administrative Record No. KY-1119), Kentucky submitted a proposed amendment modifying Kentucky Administrative Regulations (KAR) at 405 KAR 8:030, 405 KAR 8:040, 405 KAR 16:180 and 405 KAR 18:180 that relate to fish and wildlife resources. The amendment also withdraws these regulations submitted previously as part of a proposed amendment dated June 28, 1991 (Administrative Record No. KY-1059). Additional information is provided in supplemental documents, "Regulatory Impact Analysis," "Federal Mandate Analysis Comparison," and "Summary of Material Incorporated by Reference," that are required during the State regulation promulgation process.

This notice sets forth the times and locations that the Kentucky program and the proposed amendment are available for public inspection, the comment period during which interested persons may submit written comments on the proposed amendment, and the procedures that will be followed regarding a public hearing, if one is requested.

DATES: Written comments must be received on or before 4 p.m. on May 26, 1992. If requested, a public hearing on the proposed amendment will be held at 10 a.m. on May 18, 1992. Requests to present oral testimony at the hearing must be received on or before 4 p.m. on May 8, 1992.

ADDRESSES: Written comments and requests for a hearing should be mailed or hand delivered to: William J. Kovacic, Director, Lexington Field Office, Office of Surface Mining Reclamation and Enforcement, 340 Legion Drive, Suite 28, Lexington, Kentucky 40504. Copies of the Kentucky program, the proposed amendment, and all written comments received in response to this notice will be available for review at the addresses listed below, Monday through Friday, 9 a.m. to 4 p.m., excluding holidays. Each requestor may receive, free of charge, one copy of the proposed amendment by contacting OSM's Lexington Field Office.

Office of Surface Mining Reclamation and Enforcement, Lexington Field Office, 340 Legion Drive, Suite 28, Lexington, Kentucky 40504, Telephone: (606) 233-2896

Office of Surface Mining Reclamation and Enforcement, Eastern Support Center, Ten Parkway Center, Pittsburgh, Pennsylvania 15220, Telephone: (412) 937-2828

Department for Surface Mining Reclamation and Enforcement, No. 2 Hudson Hollow Complex, Frankfort, Kentucky 40601, Telephone: (502) 564-6940

If a public hearing is held, its location will be: The Harley Hotel, 2143 North Broadway, Lexington, Kentucky 40505.

FOR FURTHER INFORMATION CONTACT: William J. Kovacic, Director, Lexington Field Office, Telephone (606) 233-2896.

SUPPLEMENTARY INFORMATION:

I. Background

On May 18, 1982, the Secretary of the Interior conditionally approved the Kentucky program. Information pertinent to the general background, revisions, modifications, and amendments to the proposed permanent program submission, as well as the Secretary's findings, the disposition of comments and a detailed explanation of the conditions of approval can be found in the May 18, 1982, *Federal Register* (47 FR 21404-21435). Subsequent actions concerning the conditions of approval and program amendments are identified at 30 CFR 917.11, 917.15, 917.16, and 917.17.

II. Discussion of Amendment

By letter dated March 13, 1992, (Administrative Record No. KY-1119), Kentucky submitted a proposed program amendment that replaces four regulations submitted as part of a previous proposed program amendment submitted June 28, 1991 (Administrative Record No. KY-1059). Kentucky withdrew the four regulations submitted in Administrative Record No. KY-1059. The proposed submission completed the State promulgation process on those four proposed regulation changes to Kentucky Administrative Regulations as they relate to fish and wildlife resources. The changes to Kentucky Administrative Regulations (KAR) are: 405 KAR 8:030 Surface coal mining permits; 405 KAR 8:040 Underground coal mining permits; and 405 KAR 16:180 and 405 KAR 18:180 Protection of fish, wildlife and related environmental values.

The regulation modifications at 405 KAR 8:030 establishes application requirements for surface mining activities and its counterpart 405 KAR 8:040 establishes requirements for underground mining activities. The most significant changes are: (1) The requirement that applicants provide information on fish and wildlife resources in the permit area and adjacent area, with scope and level of detail of the information determined by the Cabinet in consultation with the

Kentucky Department of Fish and Wildlife Resources and the U.S. Fish and Wildlife Service; (2) the requirement to provide a fish and wildlife protection and enhancement plan; and (3) the requirement to provide updated information when there are changes to the permittee's principal shareholders, officers, partners, or directors. These amendments incorporate by reference the U.S. Army Corps of Engineers 1987 Wetland Delineation Manual and modifying documents. These amendments require the Cabinet, upon request, to provide the resource information and the protection and enhancement plan to the U.S. Fish and Wildlife Service for its review. The information requirements and the requirements for a protection and enhancement plan would be applicable to applications submitted on or after November 17, 1992. The regulation is also amended to identify certain types of amendments and revisions for which the fish and wildlife resource information and protection and enhancement plan will always be required, and clarify that the need for these items in other types of amendments and revisions will be determined on a case-by-case basis.

The administrative regulation at 405 KAR 16:180 and 405 KAR 18:180 contains the performance standards for protection of fish, wildlife, and related environmental values by surface coal mining operations. It requires that the permittee shall, to the extent possible using the best technology currently available, minimize disturbances and adverse impacts on fish, wildlife, and related environmental values, and shall achieve enhancement of those resources where practicable. It sets forth specific protection measures and contains reclamation strategies and wildlife enhancement techniques. These amendments prohibit mining activities that are likely to jeopardize the continued existence of endangered or threatened species or likely to result in the destruction or adverse modification of designated critical habitats of such species; require the permittee to promptly notify the Cabinet of any endangered or threatened species on the permit area of which the permittee becomes aware; and require the Cabinet, upon notification, to consult with State and Federal fish and wildlife agencies and to determine whether and under what conditions the permittee may proceed.

Additional information is also provided in supplemental documents, "Regulatory Impact Analysis," "Federal Mandate Analysis Comparison," and "Summary of Material Incorporated by

Reference," that are required during the State regulation promulgation process.

III. Public Comment Procedures

In accordance with the provisions of 30 CFR 732.17(h), OSM is now seeking comment on whether the amendment proposed by Kentucky on March 13, 1992, satisfies the applicable program approval criteria of 30 CFR 732.15. If the revised amendment is deemed adequate, it will become part of the Kentucky program.

Written Comments

Written comments should be specific, pertain only to the issues proposed in this rulemaking as set forth in Kentucky's submission dated March 13, 1992, and include explanations in support of the commentor's recommendations. Comments received after the time indicated under "DATES" or at locations other than the Lexington Field Office will not necessarily be considered in the final rulemaking or included in the Administrative Record.

Public Hearing

Persons wishing to comment at the public hearing should contact the person listed under "FOR FURTHER INFORMATION CONTACT" by 4:00 p.m. on May 8, 1992. If no one requests an opportunity to comment at a public hearing, the hearing will not be held.

Filing of a written statement at the time of the hearing is requested as it will greatly assist the transcriber.

Submission of written statements in advance of the hearing will allow OSM officials to prepare adequate responses and appropriate questions.

The public hearing will continue on the specified date until all persons scheduled to comment have been heard. Persons in the audience who have not been scheduled to comment, and who wish to do so, will be heard following those scheduled. The hearing will end after all persons scheduled to comment and persons present in the audience who wish to comment have been heard.

Public Meeting

If only one person requests an opportunity to comment at a hearing, a public meeting, rather than a public hearing, may be held. Persons wishing to meet with OSM representatives to discuss the proposed amendments may request a meeting at the OSM, Lexington Field Office listed under "ADDRESSES" by contacting the person listed under "FOR FURTHER INFORMATION CONTACT." All such meetings will be open to the public and, if possible, notices of meetings will be posted in

advance at the locations listed under "ADDRESSES." A written summary of each meeting will be made a part of the Administrative Record.

Executive Order 12778

This rule has been reviewed under the principles set forth in section 2 of E.O. 12778 (56 FR 55195, October 25, 1991) on Civil Justice Reform. The Department of the Interior has determined, to the extent allowed by law, that this rule meets the applicable standards of section 2(a) and 2(b) of E.O. 12778. Under SMCRA section 405 and 30 CFR 884 and Section 503(a) and 30 CFR 732.15 and 732.17(h)(10), the agency decision on State program submittals must be based solely on a determination of whether the submittal is consistent with SMCRA and the Federal regulations. The only decision allowed under the law is approval, disapproval or conditional approval of State program amendments.

List of Subjects in 30 CFR Part 917

Intergovernmental relations, Surface mining, Underground mining.

Dated: March 25, 1992.

Jeffrey D. Jarrett,

Acting Assistant Director, Eastern Support Center.

[FR Doc. 92-9469 Filed 4-22-92; 8:45 am]

BILLING CODE 4310-05-M

30 CFR Part 920

Maryland Permanent Regulatory Program; Prime Farmlands; Water Control Measures for Coal Mine Waste Disposal Facilities; Designation of Areas as Unsuitable for Mining

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Proposed rule.

SUMMARY: OSM is announcing the receipt and requesting comments on a proposed amendment to the Maryland permanent regulatory program (hereinafter referred to as the Maryland program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The amendment concerns changes to the Code of Maryland Regulations (COMAR) required by OSM in Federal rulemaking on January 11, 1991 (56 FR 1097).

This notice sets forth the times and locations that the Maryland program and the proposed amendment to that program are available for public inspection, the comment period during which interested persons may submit written comments on the proposed

amendment, and the procedures that will be followed regarding the public hearing, if one is requested.

DATES: Written comments must be received on or before 4 p.m. on May 26, 1992 to ensure consideration in the rulemaking process. If requested, a public hearing on the amendment will be held at 9:00 a.m. on May 18, 1992. Requests to present testimony at the hearing must be received on or before 4 p.m. on May 8, 1992.

ADDRESSES: Written comments and requests to testify at the hearing should be mailed or hand delivered to: Mr. Robert Biggi, Director, Harrisburg Field Office, at the address listed below. Copies of the Maryland program, the proposed amendment, and all written comments requested in response to this notice will be available for public review at the addresses listed below during normal business hours, Monday through Friday, excluding holidays.

Each requester may receive, free of charge, one copy of the proposed amendment by contacting OSM's Harrisburg Field Office.

Office of Surface Mining Reclamation and Enforcement, Harrisburg Field Office, Harrisburg Transportation Center, Third Floor, Suite 3C, 4th and Market Streets, Harrisburg, Pennsylvania 17101, Telephone: (717) 782-4036

Maryland Bureau of Mines, 69 Hill Street, Frostburg, Maryland 21532, Telephone: (301) 689-4136

A public hearing, if held, will be at the Penn Harris Motor Inn and Convention Center at the Camp Hill Bypass and U.S. Routes 11 and 15, Camp Hill, Pennsylvania, or at some other location in the area of interested parties.

FOR FURTHER INFORMATION CONTACT: Robert Biggi, Director, Harrisburg Field Office, Telephone: (717) 782-4036.

SUPPLEMENTARY INFORMATION:

I. Background on the Maryland Program

The Secretary of the Interior approved the Maryland program on February 18, 1982. Information on the background of the Maryland program including the Secretary's findings, the disposition of comments and a detailed explanation of the conditions of approval of the Maryland program can be found in the February 18, 1992, *Federal Register* (47 FR 7214-7217). Subsequent actions concerning amendments to the Maryland Program are in 30 CFR 920.15 and 30 CFR 920.16.

II. Discussion of Amendment

The Maryland Bureau of Mines (Bureau) submitted a program amendment to OSM on January 23, 1992.

The amendment (Administrative Record No. MD-550.00) is in response to the Director's decision identified in the *Federal Register* notice dated January 11, 1991 (56 FR 1097). This Federal rule is OSM's final action on a program amendment that the Bureau submitted in response to OSM's July 8, 1986, 30 CFR 732.17 letter (Administrative Record No. MD-351). The letter required Maryland to revise certain rules determined to be less effective than their Federal counterparts. The amendment (Administrative Record Nos. MD-377 and MD-379) covers Phase I of the Bureau's schedule to comply with the 732 letter.

The January 11, 1991, Federal rule addresses the Bureau's program amendment (Administrative Record Nos. MD-477 and MD-479). OSM approved the amendment with the exception of provisions under COMAR 08.13.09.03D (Prime Farmlands) and COMAR 08.13.09.33C(1) (Water Control Measures for Coal Mine Waste Disposal Facilities). One other change at COMAR 08.13.09.11(G)(7) (Designation of Areas as Unsuitable for Mining) was negotiated as discussed below.

Federal Register Notice, 56 FR 1097, January 11, 1991

1. COMAR 08.13.09.03D(7) (a) and (b)—Permit Applications: Special Categories of Mining (Prime Farmlands)

OSM determined that Maryland did not properly reference the updated version of the U.S. Department of Agriculture Handbook 436 "Soil Taxonomy" (U.S. Soil Conservation Service, 1975) as amended on March 22, 1982, and October 5, 1982. Specifically, Maryland did not include the amended dates. OSM also determined that Maryland did not list the required elements of a representative soil sample.

COMAR 08.13.09.03D(7)(a) is revised to include the March 22, 1982, and October 5, 1982, amended dates to the Soil Taxonomy handbook reference.

COMAR 08.13.09.03D(7)(b) is revised to add required elements to the representative soil profile description and includes soil-horizon depths, pH and the range of soil densities for each prime farmland soil unit within the permit area.

2. COMAR 08.13.09.33C(1)(e)—Waste Handling (Water Control Measures for Coal Waste Bank Disposal Facilities)

By letter dated October 5, 1990 (Administrative Record No. MD-472), Maryland agreed to amend COMAR 08.13.09.33C(1)(e) by adding the Mine Safety and Health Administration

regulations 30 CFR 77.214 (Refuse Piles; General) and 30 CFR 77.215 (Refuse Piles; Construction Requirements) to clarify that subdrainage design criteria must meet Federal requirements.

COMAR 08.13.09.33C(1)(e) is revised to include the Federal references.

3. COMAR 08.13.09.11G(7)—Designation of Areas as Unsuitable for Mining (Petition Processing Procedures)

During a telephone conversation between OSM and the Bureau, the Bureau agreed to change the existing provision at COMAR 08.13.09.11G(7) to require that any petition received after the applicant first newspaper advertisement on a permit application would not prevent the Bureau from issuing a decision on the permit application. This change would make COMAR 08.13.09.11G(7) consistent with 30 CFR 764.15(a)(b).

COMAR 08.13.09.11G(7) is amended in part by deleting the words, "... close of the public comment period set forth * * *" and inserting the words, "... first newspaper notice. * * *"

III. Public Comment Procedures

In accordance with the provisions of 30 CFR 732.17(h), OSM is now seeking comments on whether the amendments proposed by Maryland satisfy the applicable program approval criteria of 30 CFR 732.15. If the amendments are deemed adequate, they will become part of the Maryland program.

Written Comments

Written comments should be specific, pertain only to the issues proposed in this rulemaking and include explanations in support of the commenter's recommendations. Comments received after the time indicated under "DATES" or at locations other than the Harrisburg Field Office will not necessarily be considered in the final rulemaking or included in the Administrative Record.

Public Hearing

Persons wishing to comment at the public hearing should contact the person listed under "FOR FURTHER INFORMATION CONTACT" by 4:00 p.m. on May 8, 1992. If no one requests an opportunity to comment at a public hearing, the hearing will not be held.

Filing of a written statement at the time of the hearing is requested as it will greatly assist the transcriber. Submission of written statements in advance of the hearing will allow OSM officials to prepare adequate responses and appropriate questions.

The public hearing will continue on the specified date until all persons

scheduled to comment have been heard. Persons in the audience who have not been scheduled to comment, and who wish to do so, will be heard following those scheduled. The hearing will end after all persons scheduled to comment and persons present in the audience who wish to comment have been heard.

Public Meeting

If only one person requests an opportunity to comment at a hearing, a public meeting rather than a public hearing, may be held. Persons wishing to meet with OSM representatives to discuss the proposed amendments may request a meeting at the Harrisburg Field Office by contacting the person listed under "FOR FURTHER INFORMATION CONTACT." All such meetings will be open to the public and, if possible, notices of meetings will be posted at the locations under "ADDRESSES." A written summary of each meeting will be made a part of the Administrative Record.

Executive Order 12778

This rule has been reviewed under the principles set forth in Section 2 of E.O. 12778 (56 FR 55195, October 25, 1991) on Civil Justice Reform. The Department of the Interior has determined, to the extent allowed by law, that this rule meets the applicable standards of section 2(a) and 2(b) of E.O. 12778. Under SMCRA section 405 and 30 CFR part 884 and section 503(a) and 30 CFR 732.15 and 732.17(h)(10), the agency decision on State program submittals must be based solely on a determination of whether the submittal is consistent with SMCRA and the Federal regulations. The only decision allowed under the law is approval, disapproval or conditional approval of State program amendments.

List of Subjects in 30 CFR Part 920

Intergovernmental relations, Surface mining, Underground mining.

Dated: March 27, 1992.

Jeffrey D. Jarrett,

Acting Assistant Director, Eastern Support Center.

[FR Doc. 92-9472 Filed 4-22-92; 8:45 am]

BILLING CODE 4310-05-M

30 CFR Part 944

Utah Permanent Regulatory Program and Utah Abandoned Mine Reclamation Plan

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Proposed rule; reopening and extension of public comment period on proposed amendment.

SUMMARY: The Office of Surface Mining Reclamation and Enforcement (OSM) is announcing receipt of additional explanatory information and revisions pertaining to a previously proposed amendment to the Utah permanent regulatory program (hereinafter, the "Utah program") and the Utah abandoned mine reclamation plan (hereinafter, the "Utah plan") under the Surface Mining Control and Reclamation Act of 1977 (SMCRA), as amended by the Abandoned Mine Reclamation Act of 1990 (AMRA). The additional explanatory information and revisions to Utah's proposed statute pertain to changes of Utah Code Annotated (UCA) 40-10-25, expenditure priorities for eligible lands and water under the abandoned mine reclamation plan; UCA 40-10-25.1, creation, content, and use of monies of the abandoned mine reclamation fund; UCA 40-10-27(10)(b), entry upon land adversely affected by past coal mining practices; and UCA 40-10-28.1, certification of completion of coal reclamation.

The proposed amendment is intended to revise the Utah program and plan to be consistent with SMCRA, as amended; to incorporate additional flexibility afforded by the amended SMCRA; and to improve operational efficiency.

This notice sets forth the times and locations that the Utah program, plan, and proposed amendment to the program and plan are available for public inspection and the reopened comment period during which interested persons may submit written comments on the proposed amendment.

DATES: Written comments must be received by 4 p.m., m.d.t. May 8, 1992.

ADDRESSES: Written comments should be mailed or hand delivered to Robert H. Hagen at the address listed below.

Copies of the Utah program, the Utah plan, the proposed amendment, and all written comments received in response to this notice will be available for public review at the addresses listed below during normal business hours, Monday through Friday, excluding holidays. Each requester may receive one free copy of the proposed amendment by contacting OSM's Albuquerque Field Office.

Robert H. Hagen, Director, Albuquerque Field Office, Office of Surface Mining Reclamation and Enforcement, 625 Silver Avenue, SW., Ste. 310, Albuquerque, NM 87102, Telephone: (505) 766-1486.

Utah Division of Oil, Gas and Mining,
355 West North Temple, 3 Triad
Center, Ste. 350, Salt Lake City, UT
84180-1203, Telephone: (801) 538-5340

FOR FURTHER INFORMATION CONTACT:
Robert H. Hagen, Telephone: (505) 766-
1486.

SUPPLEMENTARY INFORMATION:

I. Background on the Utah Program and Plan

On January 21, 1981, the Secretary of the Interior conditionally approved the Utah program. General background information on the Utah program, including the Secretary's findings, the disposition of comments, and the conditions of approval of the Utah program can be found in the January 21, 1981, *Federal Register* (46 FR 5899). Subsequent actions concerning Utah's program and program amendments are codified at 30 CFR 944.15, 944.16, and 944.30.

On June 3, 1983, the Secretary of the Interior approved the Utah plan. General background information on the Utah plan, including the Secretary's findings, the disposition of comments, and approval of the Utah plan can be found in the June 3, 1983, *Federal Register* (48 FR 24876). Approval of Utah's plan is codified at 30 CFR 944.20.

II. Proposed Amendment

By letter dated July 26, 1991, Utah submitted a proposed amendment to its program and plan pursuant to SMCRA (administrative record No. UT-663). Utah submitted the proposed amendment at its own initiative. The provisions of the Utah Coal Mining and Reclamation Act of 1979 that Utah proposed to amend are: removal of Utah Code Annotated (UCA) 40-10-5, 2-acre exemption; removal of UCA 40-10-6.6, rulemaking authority and procedures; revision of UCA 40-10-25, expenditure

priorities for eligible lands and water under the abandoned mine reclamation plan; addition of UCA 40-10-25.1, use of monies for the abandoned mine reclamation plan; addition of UCA 40-10-25.2, liability limitation for abandoned mine reclamation; and addition of UCA 40-10-28.1, certification of completion of coal reclamation.

OSM published a notice in the August 20, 1991, *Federal Register* (56 FR 41314) announcing receipt of the proposed amendment and inviting public comment on its adequacy (administrative record No. UT-672). The public comment period ended September 19, 1991.

During its review of the amendment, OSM identified concerns relating to the provisions of the Utah Coal Mining and Reclamation Act of 1979 at UCA 40-10-25, expenditure priorities for eligible lands and water under the abandoned mine reclamation plan; UCA 40-10-25.1, creation, content, and use of monies of the abandoned mine reclamation fund; UCA 40-10-27(10)(b), entry upon land adversely affected by past coal mining practices; and UCA 40-10-28.1, certification of completion of coal reclamation. OSM notified Utah of these concerns by letter dated October 3, 1991 (administrative record No. UT-688).

By letters dated December 17, 1991, and March 17, 1992 (administrative record Nos. UT-710 and UT-739), Utah responded to OSM's concerns by submitting additional explanatory information and revisions to its proposed amendment.

III. Public Comment Procedures

OSM is reopening the comment period on the proposed Utah program and plan amendment to provide the public an opportunity to reconsider the adequacy of the proposed amendment in light of the additional materials submitted. In accordance with the provisions of 30

CFR 732.17(h) and 30 CFR 884.15(a), OSM is seeking comments on whether the proposed amendment satisfies the applicable program approval criteria of 30 CFR 732.15 and plan approval criteria of 30 CFR 884.13. If the amendment is deemed adequate, it will become part of the Utah program and the Utah plan.

Written comments should be specific, pertain only to the issues proposed in this rulemaking, and include explanations in support of the commenter's recommendations. Comments received after the time indicated under "DATES" or at locations other than the Albuquerque Field Office will not necessarily be considered in the final rulemaking or included in the administrative record.

IV. Executive Order 12778

This rule has been reviewed under the principles set forth in section 2 of E.O. 12778 (56 FR 55195; October 25, 1991) on Civil Justice Reform. The Department of the Interior has determined, to the extent allowed by law, that this rule meets the applicable standards of sections 2(a) and 2(b) of E.O. 12778. Under SMCRA section 405 and 30 CFR 884 and section 503(a) and 30 CFR 732.15 and 732.17(h)(10), the agency decision on State program submittals must be based solely on a determination of whether the submittal is consistent with SMCRA and the Federal regulations. The only decision allowed under the law is approval, disapproval, or conditional approval of State program amendments.

List of Subjects in 30 CFR Part 944

Intergovernmental relations, Surface mining, Underground mining.

Dated: April 3, 1992.

Raymond L. Lowrie,
Assistant Director, Western Support Center.
[FR Doc. 92-9471 Filed 4-22-92; 8:45 am]

BILLING CODE 4310-05-M

Notices

Federal Register

Vol. 57, No. 79

Thursday, April 23, 1992

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

AGENCY FOR INTERNATIONAL DEVELOPMENT

Meeting of International Disaster Advisory Committee

The International Disaster Advisory Committee (IDAC) will hold a meeting on Wednesday, May 6, 1992. Topics for discussion will include corporate-government cooperation for international disaster mitigation, prevention and response.

Date: May 6, 1992.

Time: 9 a.m.-12 p.m.

Place: Department of State, 2201 C Street, NW., Room 7516, Washington, DC 20520.

The meeting is free and open to the public. However, notification by April 24, 1992 through the Advisory Committee Office is required.

Persons wishing to attend the meeting must call Susan Grindler (202) 647-5210 before April 24, 1992, or write to be received by that date to: International Disaster Advisory Committee, Agency for International Development, room 1262A NS, Washington, DC 20523-0008.

Dated: April 16, 1992.

Oliver R. Davidson,
Executive Director, International Disaster,
Advisory Committee.

[FR Doc. 92-9493 Filed 4-22-92; 8:45 am]

BILLING CODE 6116-01-M

DEPARTMENT OF AGRICULTURE

Forms Under Review by Office of Management and Budget

April 17, 1992.

The Department of Agriculture has submitted to OMB for review the following proposals for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35) since the last list was published. This list is grouped into new proposals, revisions, extensions, or reinstatements. Each entry contains the following information:

(1) Agency proposing the information collection; (2) Title of the information collection; (3) Form number(s), if applicable; (4) How often the information is requested; (5) Who will be required or asked to report; (6) An estimate of the number of responses; (7) An estimate of the total number of hours needed to provide the information; (8) Name and telephone number of the agency contact person.

Questions about the items in the listing should be directed to the agency person named at the end of each entry. Copies of the proposed forms and supporting documents may be obtained from: Department Clearance Officer, USDA, OIRM, room 404-W Admin. Bldg., Washington, DC 20250, (202) 690-2118.

Extension

• Agricultural Cooperative Service. Livestock, Poultry, and Wool Marketing Cooperative: Marketing Methods and Service for Members.

On occasion.

Businesses or other for-profit; Small businesses or organizations; 84 responses; 63 hours.

T. Fred White, Jr., (202) 720-5390.

Reinstatement

• Animal and Plant Health Inspection Service.

9 CFR part 166 Swine Health Protection VS 13-15, 13-16, 13-17.

Recordkeeping; On occasion.

Farms; Small businesses or organizations; 656 responses; 175 hours.

Dr. Deloris M. Lenard, (301) 438-7767.

Donald E. Hulcher,

Deputy Departmental Clearance Officer.

[FR Doc. 92-9505 Filed 4-22-92; 8:45 am]

BILLING CODE 3410-01-M

Forest Service

Exemption of the Jack-Wil Recovery Project, Boise National Forest, ID

AGENCY: Forest Service, USDA.

ACTION: Notification that decisions relating to the rehabilitation and recovery of insect damaged natural resources are exempted from appeal.

SUMMARY: This is notification that decisions to implement timber salvage harvest, insect baiting and trapping and reforestation activities to rehabilitate and recover natural resources from

recent insect epidemics on the Jack-Wil project area on the Idaho City Ranger District on the Boise National Forest are exempted from appeal in accordance with 36 CFR part 217.

EFFECTIVE DATE: Effective on April 23, 1992.

FOR FURTHER INFORMATION CONTACT: Terry Sexton, Timber Management Assistant, Idaho City Ranger District, Boise National Forest, P.O. Box 129, Idaho City, ID 83631, Telephone: 208-392-6681.

SUPPLEMENTAL INFORMATION: Several years of drought in southwest Idaho have reduced soil moisture and weakened conifer trees. Consequently, Douglas-fir bark beetle, mountain pine beetle and Tussock moth inspect populations have dramatically increased and reached epidemic levels on the Boise National Forest. It is estimated that more than 400,000 trees larger than 12 inches in diameter have died on the Forest as a result of insect damage since 1986.

As part of the effort to rehabilitate and recover natural resources damaged by the insect epidemic, the Idaho City Ranger District has developed a proposal to harvest dead and dying timber, bait and trap insects and reforest damaged acres. The Idaho City District is currently preparing the Jack-Wil Environmental Assessments (EA) to identify issues, develop alternatives and analyze the effects of implementing timber salvage and other recovery activities.

The analysis area for the Jack-Wil EA is located ten miles north of Idaho City, Idaho. The area comprises approximately 23,000 acres with insect mortality scattered throughout. The Forest will harvest approximately 8 million board feet of dead and dying trees, using helicopters, tractors and jammers. Insect damage is scattered. Cutting areas would average less than five acres in size and would not exceed 20 acres. Cutover areas greater than ten acres would be replanted, and smaller areas may be replanted depending on accessibility. Natural regeneration would be used to reforest smaller areas.

The Forest will bait and trap insects within the project area to help break up breeding cycles and reduce future inspect populations. There is no new road construction proposed for the salvage operations.

Management direction for the Jack-Wil area is established in the Boise National Forest Land and Resource Management Plan (Forest Plan). The Forest Plan provides for the removal of salvage timber from lands within the project areas. In addition, the Forest Plan describes standards which must be observed when harvesting timber to protect soil, water, wildlife, visual and other on-site resources. The proposed action for the Jack-Wil project is consistent with standards, objectives and direction contained in the Forest Plan.

Jack-Wil contains a 500-acre portion of the Grimes Pass Roadless Area. This area has been allocated to commercial timber production in accordance with the Forest Plan. Approximately 80 thousand board feet would be harvested from the area using helicopters. Landings would be adjacent to existing roads.

Forest Pest Management Specialists and District Foresters have analyzed the insect situation and have found no economical or practical means to control the insect epidemic. Although salvage harvesting, baiting/trapping and reforestation will not control the epidemic, these activities will: (1) Help to break up insect breeding cycles, (2) recover valuable timber that would otherwise deteriorate and (3) reforest those areas that have been left without tree cover as a result of the insect-caused mortality. It is extremely important to remove the dead and dying timber prior to deterioration and subsequent value losses. Through the salvage timber sale breeding insects can be trapped and removed and Knutson-Vandenburg (K-V) funds can be generated for use to restore forest resources that have been damaged by the insect epidemic.

The Forest Supervisor has determined through preliminary scoping and environmental analysis that there is sufficient justification to expedite this project.

The decision for Jack-Wil will be implemented upon publication of this notice in the *Federal Register*. If the project is delayed because of an appeal (delays of up to 150 days are possible), it is likely that the salvage harvest could not be implemented during the 1992 normal operating season. This would result in a loss of volume and value of the timber due to deterioration. The total estimated value of the merchantable dead and dying timber is \$400,000. Of this, approximately \$100,000 would be returned to counties from 25 percent fund receipts. Delays resulting from appeals could cause the loss of up to half of this value and potentially

make the salvage sale unattractive to timber purchasers. This would jeopardize the objectives of the rehabilitation and recovery project.

Pursuant to 36 CFR 217.4(a)(11), it is my decision to exempt the Jack-Wil Salvage and Recovery Project on the Idaho City Ranger District, Boise National Forest, from appeal. The environmental assessment discloses the effects of the proposed actions on the environmental and addresses issues resulting from the proposal.

Dated: April 17, 1992.

Robert C. Joslin,

Deputy Regional Forester, Intermountain Region, USDA Forest Service.

[FR Doc. 92-9462 Filed 4-22-92; 8:45 am]

BILLING CODE 3410-11-M

Rocky Canyon Timber Sale, Boise National Forest, Valley County, ID

AGENCY: Forest Service, USDA.

ACTION: Revised notice of intent to prepare an Environmental Impact Statement.

SUMMARY: The Boise National Forest published a Notice of Intent to prepare an Environmental Impact Statement for the proposed Rocky Canyon Timber Sale in the *Federal Register* on December 13, 1991 (Vol. 56, No. 240, pages 65039 and 65040). That notice is hereby revised to change the responsible official. The responsible official is now Stephen P. Mealey, Boise National Forest Supervisor. (The responsible official was formerly the Emmett District Ranger.) No other revisions are made.

FOR FURTHER INFORMATION CONTACT: Questions about the proposed action should be directed to Don Dittmer, Timber Management Assistant; Emmett Ranger District; 1648 N. Washington; Emmett, ID 83617; phone (208) 365-3811.

Dated: April 14, 1992.

Stephen P. Mealey,

Forest Supervisor.

[FR Doc. 92-9433 Filed 4-22-92; 8:45 am]

BILLING CODE 3410-11-M

Far East Salvage and Recovery Project, Boise National Forest, Boise County, ID

AGENCY: Forest Service, USDA.

ACTION: Revised Notice of intent to prepare an Environmental Impact Statement.

SUMMARY: The Boise National Forest published a Notice of Intent to prepare an Environmental Impact Statement for the proposed Far East Salvage and

Recovery Project in the *Federal Register* on December 27, 1991 (Vol. 56, No. 249, page 67056). That notice is hereby revised to change the responsible official. The responsible official is now Stephen P. Mealey, Boise National Forest Supervisor. (The responsible official was formerly Morris Huffman, Lowman District Ranger.) No other revisions are made.

FOR FURTHER INFORMATION CONTACT:

Questions about the proposed action should be directed to Dautis Pearson; Project Leader; Lowman Ranger District; HC 77 Box 3020, Lowman ID 83837; phone (208) 259-3361.

Dated: April 14, 1992.

Stephen P. Mealey,

Forest Supervisor.

[FR Doc. 92-9434 Filed 4-22-92; 8:45 am]

BILLING CODE 3410-11-M

Elk Creek Integrated Resource Management Project, Boise National Forest, Elmore County, ID

AGENCY: Forest Service, USDA.

ACTION: Revised Notice of intent to prepare an Environmental Impact Statement.

SUMMARY: The Boise National Forest published a Notice of Intent to prepare an Environmental Impact Statement for the proposed Elk Creek Integrated Resource Management Project in the *Federal Register* on October 28, 1991 (Vol. 56, No. 208, page 55489). That notice is hereby revised to change the responsible official. The responsible official is now Stephen P. Mealey, Boise National Forest Supervisor. (The responsible official was formerly the Mountain Home District Ranger, Larry Tripp.) No other revisions are made.

FOR FURTHER INFORMATION CONTACT: Questions about the proposed action should be directed to Larry Tripp; District Ranger; Mountain Home Ranger District; 2180 American Legion Boulevard; Mountain Home, ID 83647; phone (208) 587-7961.

Dated: April 14, 1992.

Stephen P. Mealey,

Forest Supervisor.

[FR Doc. 92-9435 Filed 4-22-92; 8:45 am]

BILLING CODE 3410-11-M

Logging Gulch Timber Sale, Boise National Forest, Boise County, ID

AGENCY: Forest Service, USDA.

ACTION: Revised Notice of intent to prepare an Environmental Impact Statement.

SUMMARY: The Boise National Forest published a Notice of Intent to prepare an Environmental Impact Statement for the proposed Logging Gulch Timber Sale in the *Federal Register* on December 11, 1991 (Vol. 56, No. 238, pages 64586 and 64587). That notice is hereby revised to change the responsible official. The responsible official is now Stephen P. Mealey, Boise National Forest Supervisor. (The responsible official was formerly the Idaho City District Ranger, Kathleen M. Lucich.) No other revisions are made.

FOR FURTHER INFORMATION CONTACT: Questions about the proposed action should be directed to Kathleen M. Lucich, District Ranger; or Terry Padilla, Team Leader; Idaho City Ranger District; Idaho City, ID 83631; phone (208) 392-6681.

Dated: April 14, 1992.

Stephen P. Mealey,
Forest Supervisor.

[FR Doc. 92-9436 Filed 4-22-92; 8:45 am]

BILLING CODE 3410-11-M

Trail Creek II Timber Sale, Boise National Forest, Boise County, ID

AGENCY: Forest Service, USDA.

ACTION: Revised notice of intent to prepare an Environmental Impact Statement.

SUMMARY: The Boise National Forest published a Notice of Intent to prepare an Environmental Impact Statement for the proposed Trail Creek II Timber Sale in the *Federal Register* on February 3, 1992 (Vol. 57, No. 22, pages 3990, 3991, and 3992). That notice is hereby revised to change the responsible official. The responsible official is now Stephen P. Mealey, Boise National Forest Supervisor. (The responsible official was formerly Morris Huffman, Lowman District Ranger.) No other revisions are made.

FOR FURTHER INFORMATION CONTACT: Questions about the proposed action should be directed to Chris L. Wagner, Project Leader; Lowman Ranger District; HC 77 Box 3020, Lowman ID 83637; phone (208) 259-3361.

Dated: April 14, 1992.

Stephen P. Mealey,
Forest Supervisor.

[FR Doc. 92-9437 Filed 4-22-92; 8:45 am]

BILLING CODE 3410-11-M

DEPARTMENT OF COMMERCE

Bureau of Export Administration

[Docket No. AB-1-91]

Action Affecting Export Privileges; Wescot International, Inc.

Summary

Pursuant to the September 26, 1991 Recommended Decision and Order of the Administrative Law Judge (ALJ), which is attached hereto and affirmed by me, Wescot International, Inc. is hereby assessed a civil penalty of \$10,000. Further, Wescot International, Inc. and all successors, assignees, officers, partners, representatives, agents and employees are hereby denied for a period of ten years from the date hereof all privileges of participating, directly or indirectly, in any manner or capacity, in any transaction involving commodities or technical data exported from the United States in whole or in part, or to be exported, or that are otherwise subject to the Export Administration Regulations (15 CFR parts 768-799). This action is further subject to the other conditions enumerated in the Recommended Decision and Order of the ALJ.

Order

On September 26, 1991, the ALJ entered his Recommended Decision and Order in the above-referenced matter. The Decision and Order, a copy of which is attached hereto and made a part hereof, has been referred to me for final action. Having examined the record and based on the facts in these cases, I hereby affirm the Decision and Order of the ALJ.

This constitutes final agency action in this matter.

Dated: April 17, 1992.

Joan M. McEntee
Acting Under Secretary for Export Administration.

Decision and Order on Default; Preliminary Statement

Respondent: Christopher Eising, President, Wescot International, Inc., 10 Acorn Court, Novato, CA 94948. Appearance for Agency: Anthony K. Hicks, Esq., Office of Chief Counsel for Export Administration, U.S. Department of Commerce, Suite H-3839, 14th & Constitution Ave., NW., Washington, DC 20230.

On May 2, 1991, the Office of Antiboycott Compliance ("Agency"), Bureau of Export Administration, U.S. Department of Commerce, issued a charging letter against Respondent Wescot International, under the

authority of the International Emergency Economic Powers Act, 50 U.S.C.A. 1701-1706 (IEEPA)¹ and the Export Administration Regulations ("Regulations").

The Agency has charged that Respondent forwarded information about business relationships between persons² other than itself who were known or believed to be restricted from having any business relationships with or in a boycotting country in violation of § 769.2(d)(iv) of the Regulations. The Agency has separately charged that Respondent knowingly agreed to refuse to do business with another person pursuant to a request or requirement of another country in violation of § 769.2(a) of the Regulations.

Because of the failure to answer, this office issued an Order, dated July 16, 1991, ruling Respondent in default and directing Agency Counsel to file an evidentiary submission by August 16, 1991, pursuant to § 788.8 of the Regulations, which provides:

Default (a) General

If a timely answer is not filed, the department shall file with the Administrative Law Judge a proposed Order together with the supporting evidence for the allegations in the charging letter. The Administrative Law Judge may require further submissions and shall issue any Order he deems justified by the evidence of record. Any Order so issued shall have the same force and effect as an Order issued following the disposition of contested charges.

Agency Counsel filed the Motion for a Default Judgment on August 16, 1991. The Agency also submitted documentary evidence to support allegations made in the charging letter. A copy of the above mentioned Motion was also sent to the Respondent on August 16, 1990, to which there has been no response.

Facts

Wescot International, Inc. was an export company located in San Rafael, California, incorporated under the laws of that state (Agency Ex. 2). Wescot exported construction equipment (valves, electrical equipment and building materials) to the Middle East and other destinations. One of Wescot's employees, Peter Krainock (Krainock), is shown to have been specifically involved in this matter. He was a trader of mechanical goods. In addition, at all

¹ The charging letter cites the Export Administration Act of 1979, as amended. That Act expired on September 30, 1990. The Regulations are continued in effect under IEEPA.

² Agency Counsel's motion to conform the pleading to the facts is granted.

times relevant to this matter, Wescot had a purchasing affiliate in Dammam, Saudi Arabia called Green Technical Projects, Est. (GTP). Two employees, Andy Millership (Millership) and Andrew Killick (Killick), worked for GTP. As a general matter, companies in Saudi Arabia would place orders with GTP, which would in turn place those orders with Wescot.

Charge 1

In or around early April 1986, Wescot purchased electrical material from Spring City Electrical Manufacturing Company, Spring City, Pennsylvania. In early April, Wescot shipped that equipment to GTP in Saudi Arabia which in turn was to supply it to Daelim Industrial Company, Ltd., a contractor involved in the construction of the Dhahran Health Center in Saudi Arabia.

Shortly thereafter, Wescot learned that Saudi Arabian Customs had prevented the equipment from entering Saudi Arabia. On April 11, 1986, Millership of GTP sent Krainock of Wescot a facsimile letter stating, in pertinent part:

Please ask Spring City [Electrical Manufacturing Company, Spring City, Pennsylvania] if they will write a letter stating that they have no relations with Spring City Knitting—If we get this in quickly we may not have to go through the hassle of proving that their [sic] are no ties with Israel.

(Agency Ex. 3).

On or about April 14, 1986, Millership sent Krainock another facsimile letter stating, in pertinent part, as follows:

Can you please try to get some evidence that Spring City are [sic] not the Blacklisted company as I have a meeting tomorrow with Saudi Customs. This is very important. Thanks.

(Agency Ex. 4).

On or about April 15, 1986, Wescot received a third facsimile letter from GTP asking that the desired letter state that "Spring City Electrical Mfg. Co." had no relationship with "Spring City Manufacturing Company Corporation" (Agency Ex. 5).³ That letter also stated that Spring City Electrical Manufacturing Company, Spring City, Pennsylvania, should forward the desired letter to Al Judhei Est., P.O. Box 1679, Dammam, Saudi Arabia (Agency Ex. 5). Al Judhei Est. was at all times relevant to this matter a freight

forwarder in Saudi Arabia (Agency Ex. 2).

On May 30, 1986, in response to GTP's requests, Wescot sent GTP a telefax. Attached to it was a copy of a letter prepared by Spring City Electrical Manufacturing Company, Spring City, Pennsylvania, on May 16, 1986. That letter stated, in part, the following:

Spring City Electrical Mfg. Co. has no relationship to Spring City Manufacturing Company Corporation.

(Agency Ex. 6).

Charge 2

The facts associated with Charge 2 also concern Wescot's supplying the Dhahran Health Center Project in Saudi Arabia through GTP, albeit with gauges rather than electrical equipment. On or about May 3, 1986, Andrew Killick of GTP sent a facsimile letter to Krainock at Wescot (Agency Ex. 7). In the fax, Killick stated, in pertinent part:

Reference spec page XE-k94634 sheet no. 2731 and 2732 copies attached for static pressure and velocity gauges, please not Dwyer and restricted supply. Please quote alternative to same spec—quantities handwritten on page 2372.

In response to GTP's (Killick's) request, on May 5, 1986, Wescot (Krainock) telefaxed GTP and informed it:

The spec'd maker, Dwyer, appears to be the only supplier of low pressure * * * gauges * * * however, am still checking.

We can offer a competitor's line * * * but at a price 4 to 5 times price of Dwyer. Waiting for manufacturers details.

In the event we are able to find substitutes, they will be considerably more expensive.

(Agency Ex. 8).

On or about May 6, 1986, GTP responded to Wescot's telefax message wherein it directed Wescot (Krainock):

"* * * will advise why Dwyer are unacceptable. Pls. keep chasing an alternative".

(Agency Ex. 9). On or about May 29, 1986, GTP explained its objection to Dwyer's gauges by stating, in part, the following:

The gauges made by Dwyer * * * are blacklisted in Saudi and we need to get from alt. mfr. I am convinced that someone must make these in the USA so please try to quote and get some submittal data soonest.

(Agency Ex. 10).

Ultimately, according to Wescot, it did not receive an order from the Dhahran Health Center Project for the Dwyer-like gauges (Agency Ex. 2).

Discussion

Charge 1

Under § 769.2(d)(iv) of the Regulations, no U.S. person may, with boycott intent, furnish information concerning any person's past, present, or proposed business relationships with another person who is known or believed to be restricted from having any business relationships with or in a boycotting country.

Section 769.1(b) of the Regulations includes in the definition of "U.S. person" any corporation organized under the laws of any State of the United States. The evidence establishes that, at all relevant times, Wescot was incorporated in California and is therefore a U.S. person as that term is defined by the Regulations.

The evidence establishes that, in April 1986, Wescot learned that one of its shipments had been prevented from entering Saudi Arabia. GTP's statement to Wescot in the April 14, 1986 letter—"can you please try to get some evidence that Spring City are [sic] not the Blacklisted company as I have meeting tomorrow with Saudi Customs"—indicates that Saudi Customs held up the Wescot shipment associated with Charge 1 because it believed that Spring City Manufacturing Company Corporation was the same company as, or was related to, Spring City Electrical Manufacturing Company, a company believed to be blacklisted.

The evidence further establishes that Saudi Arabian Customs, through GTP and Al Judhei Est., asked Wescot to obtain a letter from Spring City Electrical Manufacturing Company certifying that that company had no relationship to Spring City Manufacturing Company Corporation. Moreover, the evidence establishes that GTP asked Wescot to forward that letter to GTP in Saudi Arabia and that, on May 30, 1986, Wescot complied with that request (the letter was found in a box marked "faxes out", thereby establishing that Wescot sent it).

The evidence establishes that, on or about May 30, 1986, Wescot transmitted and thereby furnished information about Spring City Electrical Manufacturing Company's past, present, or proposed business relationship with another person (Spring City Manufacturing Company Corporation). See 15 CFR part 769, Supplement 16. The evidence further establishes that Saudi Customs believed that Spring City Manufacturing Company Corporation was restricted from having any business relationships with or in a boycotting country because it held up the shipment of electrical

³ In the April 15, 1986 letter, GTP asked Spring City Electrical Manufacturing Company, Spring City, Pennsylvania, to certify that it was not related to Spring City Manufacturing Corporation, even though an earlier letter had mentioned Spring City Knitting. Apparently, the earlier reference to Spring City Knitting was a mistake.

equipment and led GTP to believe that the letter in question would help to resolve the matter, a contention supported by the fact that before meeting with Saudi Customs to discuss the shipment, GTP wanted a copy of that letter.

Finally, the evidence establishes that Wescot acted with the requisite boycott intent. Section 769.2(e) states that a U.S. person has the intent to comply with, further, or support an unsanctioned foreign boycott when such a boycott is at least one of the reasons for that person's decision whether to take a particular action. Here, GTP informed Wescot that it needed to provide the Saudis with "evidence" that "Spring City" was not the "blacklisted" company. Those facts, established that at least one of the reasons Wescot furnished the information in question was to comply with the Arab boycott of Israel.

Based upon the foregoing, I find that Wescot violated § 769.2(d)(iv) of the Regulations.

Charge 2

Section 769.2(a) of the Regulations provides that no U.S. person, with boycott intent, may knowingly agree to refuse to do business with any other person pursuant to a requirement of or a request from or on behalf of a boycotting country.

As noted above, the evidence establishes that, at all relevant times, Wescot was incorporated in California and therefore was a person as that term is defined by the Regulations.

The evidence establishes that, on May 3, 1986, GTP, in Saudi Arabia, ordered pressure gauges from Wescot, making it clear that it wanted gauges like those manufactured by Dwyer, but that it did not actually want Dwyer gauges. The reason GTP provided for not wanting actual Dwyer gauges was that Dwyer was "restricted supply". The reference to "restricted supply" was in fact a reference to GTP's understanding that, consistent with Saudi Arabia's boycott of Israel, Dwyer goods were not welcome in Saudi Arabia for boycott-related reasons. This is confirmed by GTP's letter of May 29, 1986.

In response to GTP's request, on May 5, 1986, Wescot informed GTP that it was trying to obtain gauges like the Dwyer ones despite the fact that any other manufacturer would charge four to five times as much for them, and the Dhahran Health Center appeared willing to pay that price. When Wescot informed GTP that it was trying to obtain the Dwyer-like gauges, on May 5, 1986, it agreed to refuse to do business with Dwyer, pursuant to GTP's request,

which was, in fact, based on the requirement of a boycotting country, Saudi Arabia.

Based on the foregoing, I find that Wescot knowingly agreed to refuse to do business with Dwyer pursuant to a requirement of or a request from or on behalf of Saudi Arabia, a boycotting country, and thereby violated § 769.2(a) of the Regulations.

The evidence also establishes that Wescot acted with the requisite boycott intent. Section 769.2(e) states that a U.S. person has the intent to comply with, further, or support an unsanctioned foreign boycott when such a boycott is at least one of the reasons for the person's decision whether to take a particular action. First, as shown in the discussion concerning Charge 1, the facts of record establish that Wescot was well aware of the boycott and the "blacklist," based upon its problems in April 1986 with the Spring City shipment (see Charge 1). This was shortly before May 5, 1986, the date upon which the violation in question occurred.

In addition, from the reference to "restricted supply" ⁴ and the fact that the Dhahran Health Center appeared willing to pay four to five times the price for Dwyer-like gauges, it is concluded that, May 5, 1986, Wescot knew that the "boycott" was behind the requests for non-Dwyer products. Given those facts, there can be little doubt that the boycott was at least one of the reasons Wescot agreed, on or about May 5, 1986, not to do business with Dwyer.

Based on the foregoing, I find that Wescot violated § 769.2(a) of the Regulations.

Conclusions

In March 1983, Wescot filed a form ITA-621P, receipt of boycott-related request, which indicated that Wescot was not only aware of the Act and the Regulations, but also of the boycott (Agency Ex. 2).

Second, Wescot did not make a voluntary disclosure. The Department uncovered the violations in question after auditing Wescot (Agency Ex. 2).

In connection with both of the Charges, GTP made it clear to Wescot that the Arab boycott of Israel was the driving force behind the request associated with each charge. Yet, Wescot did not hesitate to provide the information in question and readily agreed to refuse to do business with Dwyer. This constitutes egregious misconduct.

⁴ GTP's May 29, 1986 letter confirms the conclusion that the phrase "restricted supply" referred to the fact that Dwyer gauges were not acceptable because of their blacklist problems.

Two separate types of sanctions are available in this matter—the imposition of civil penalties and/or the denial of export privileges. Both sanctions are appropriate, though Agency Counsel has only proposed a denial of export privileges assertedly because Wescot informed the Agency prior to initiation of this proceeding that it had filed for bankruptcy. The record does not confirm such representation which would be an easily verifiable fact from Government records, the unverified assertion is therefore disregarded. The contumacious nature of the Respondent's acts here require more significant penalty than the one year denial to the boycotting Arab countries suggested by Agency Counsel. The nature of the violations and the attitude reflected by the Default require that a significantly longer period is appropriate. The Under Secretary's recent approval of a 30 year denial for shipping medical supplies to South Africa is analogous.⁵ In addition, I conclude that a civil penalty of \$10,000 is appropriate to deter similar misconduct.⁶

Order

I. Respondent Wescot International, Inc. is assessed a civil penalty of \$10,000.

II. For a period of 10 years from the date of the final Agency action, Respondent Wescot International, Inc., 10 Acorn Court, Novato, California 94946, and all successors, assignees, officers, partners, representatives, agents, and employees hereby are denied all privileges of participating, directly or indirectly, in any manner or capacity, in any transaction involving commodities or technical data exported from the United States in whole or in part, or to be exported, or that are otherwise subject to the Regulations.

III. Participation prohibited in any such transaction, either in the United

⁵ It must, however, be recognized that this entire proceeding may be much ado about nothing, for if the company is dissolved in bankruptcy, this proceeding constitutes merely punching at shadows. The failure to move and identify, at least as related parties, the individuals who perpetrated these violations indicate that in all probability no effective sanctions against the miscreant perpetrators is being requested. (The names of Peter Krainock, Green Technical Products, Est., Andy Millership, Andrew Killick, Daelim Industrial Company, Ltd., and Al Judei Est. which are referenced in the file and the decision all appear to be culpable parties but no notice is here given that they are related or otherwise affected.)

⁶ If the Respondent is judgment proof because of bankruptcy or for other reasons, the Justice Department or other appropriate collection agency, after a proper check, will so inform this Department.

States or abroad, shall include, but not be limited to, participation:

(i) As a party or as a representative of a party to a validated or general export license application;

(ii) In preparing or filing any export license application or request for reexport authorization, or any document to be submitted therewith;

(iii) In obtaining or using any validated or general export license or other export control document;

(iv) In carrying on negotiations with respect to, or in receiving, ordering, buying, selling, delivering, storing, using, or disposing of, in whole or in part, any commodities or technical data exported from the United States, or to be exported; and

(v) In the financing, forwarding, transporting, or other servicing of such commodities or technical data.

Such denial of export privileges shall extend to those commodities and technical data which are subject to the Act and the Regulations.

IV. After notice and opportunity for comment, such denial of export privileges may be made applicable to any person, firm, corporation, or business organization with which the Respondent is now or hereafter may be related by affiliation, ownership, control, position of responsibility, or other connection in the conduct of trade or related services.

V. All outstanding individual validated export licenses in which Respondent appears or participates, in any manner or capacity, are hereby revoked and shall be returned forthwith to the Office of Export Licensing for cancellation. Further, all of Respondent's privileges of participating, in any manner or capacity, in any special licensing procedure, including, but not limited to, distribution licenses, are hereby revoked.

VI. No person, firm, corporation, partnership, or other business organization, whether in the United States or elsewhere, without prior disclosure to and specific authorization from the Office of Export Licensing, shall, with respect to commodities and technical data, do any of the following acts, directly or indirectly, or carry on negotiations with respect thereto, in any manner or capacity, on behalf of or in any association with any Respondent or any related person, or whereby any Respondent or any related person may obtain any benefit therefrom or have any interest or participation therein, directly or indirectly:

(i) Apply for, obtain, transfer, or use any license, Shipper's Export Declaration, bill of lading, or other export control document relating to any

export, reexport, transshipment, or diversion of any commodity or technical data exported in whole or in part, or to be exported by, to, or for any Respondent or related person denied export privileges, or

(ii) Order, buy, receive, use, sell, deliver, store, dispose of, forward, transport, finance or otherwise service or participate in any export, reexport, transshipment or diversion of any commodity or technical data exported or to be exported from the United States.

Dated: September 26, 1991.

Hugh J. Dolan,

Administrative Law Judge.

Any administrative appeal from this decision must be filed with the Office of the Under Secretary for Export Administration, Bureau of Export Administration, U.S. Department of Commerce, room H-3898B, 14th Street and Pennsylvania Ave., NW., Washington, DC 20230, within 30 days of service. 15 CFR 788.22. This Order is not effective until the expiration of the 30-day period or the completion of the administrative appellate review, whichever is later.

[FR Doc. 92-9581 Filed 4-22-92; 8:45 am]

BILLING CODE 3510-DT-M

Minority Business Development Agency

[Project I.D. No. 06-10-92011-01]

Business Development Center Applications: Albuquerque MBDC

AGENCY: Minority Business Development Agency.

ACTION: Notice.

SUMMARY: In accordance with Executive Order 11625, the Minority Business Development Agency (MBDA) is soliciting competitive applications under its Minority Business Development Center (MBDC) program to operate an MBDC for approximately a 3-year period, subject to Agency priorities, recipient's performance and the availability of funds. The cost of performance for the first budget period (12 months) is estimated as \$277,473 in Federal funds, and a minimum of \$48,966 in non-Federal (cost sharing) contributions from September 1, 1992, to August 31, 1993. An amount of \$13,545 has been allocated for the audit fee and should be listed in the contractual line item under the Federal amount. Cost-sharing contributions may be in the form of cash contributions, client fees, in-kind contributions or combinations thereof.

The MBDC will operate in the Albuquerque, New Mexico MSA geographic service area with an extended service area throughout the state of New Mexico. The funding breakdown is as follows: \$184,260 Federal and \$34,142 non-Federal for Albuquerque MSA and \$80,000 Federal and \$14,824 non-Federal for the remainder part of the state of New Mexico and 13,213 Federal and 2,332 non-Federal for audit. The applicant must provide form SF-424A (Budget) for (1) the MSA, (2) the Extended Geographic Area, and (3) a combined budget for the entire project. In addition, the applicant must provide a TPP for (1) the MSA, (2) EGA, and (3) a combined TPP for the entire project.

The funding instrument for the MBDC will be a cooperative agreement. Competition is open to individuals, non-profit and for-profit organizations, state and local governments, American Indian tribes and educational institutions.

The MBDC program is designed to provide business development services to the minority business community for the establishment and operation of viable minority businesses. To this end, MBDA funds organizations that can identify and coordinate public and private sector resources on behalf of minority individuals and firms; offer a full range of management and technical assistance; and serve as a conduit of information and assistance regarding minority business.

Applications will be evaluated initially by regional staff on the following criteria: the experience and capabilities of the firm and its staff in addressing the needs of the business community in general and, specifically, the special needs of minority businesses, individuals and organizations (50 points); the resources available to the firm in providing business development services (10 points); the firm's approach (techniques and methodologies) to performing the work requirements included in the application (20 points) this includes the MSA and Extended Geographic Area of service; and the firm's estimated cost for providing such assistance in the specified geographic area of service (20 points). An application must receive at least 70% of the points assigned to any one evaluation criteria category to be considered programmatically acceptable and responsive. The selection of an application for further processing by MBDA will be made by the Director based on a determination of the application most likely to further the purpose of the MBDC Program. The application will then be forwarded to

the Department for final processing and approval, if appropriate. The Director will consider past performance of the applicant on previous Federal awards.

MBDCs shall be required to contribute at least 15% of the total project cost through non-Federal contributions. To assist them in this effort, MBDCs may charge client fees for management and technical assistance (M&TA) rendered. Based on a standard rate of \$50 per hour, MBDCs will charge client fees at 20% of the total cost for firms with gross sales of \$500,000 or less, and 35% of the total cost for firms with gross sales of over \$500,000.

MBDCs performing satisfactorily may continue to operate after the initial competitive year for up to 2 additional budget period. MBDCs with year-to-date "commendable" and "excellent" performance ratings may continue to be funded for up to 3 or 4 additional budget periods, respectively. Under no circumstances shall an MBDC be funded for more than 5 consecutive budget periods without competition. Periodic reviews culminating in year-to-date quantitative and qualitative evaluations will be conducted to determine if funding for the project should continue. Continued funding will be at the discretion of MBDA based on such factors as an MBDC's performance, the availability of funds and Agency priorities.

Awards under this program shall be subject to all Federal and Departmental regulations, policies, and procedures applicable to Federal assistance awards.

In accordance with OMB Circular A-129, "Managing Federal Credit Programs," applicants who have an outstanding account receivable with the Federal Government may not be considered for funding until these debts have been paid or arrangements satisfactory to the Department of Commerce are made to pay the debt.

Applicants are subject to Governmentwide Debarment and Suspension (Nonprocurement) requirements as stated in 15 CFR part 26. 15 CFR part 28 is applicable and prohibits recipients of Federal contracts, grants, and cooperative agreements from using appropriated funds for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with a specific contract, grant, or cooperative agreement. The Departmental Grants Officer may terminate any grant/cooperative agreement in whole or in part at any time before the date of completion whenever it is determined that the MBDC has failed to comply with

the conditions of the grant/cooperative agreement. Examples of some of the conditions which can cause termination are failure to meet cost-sharing requirements; unsatisfactory performance of MBDC work requirements; and reporting inaccurate or inflated claims of client assistance or client certification. Such inaccurate or inflated claims may be deemed illegal and punishable by law.

On November 18, 1988, Congress enacted the Drug-Free Workplace Act of 1988 (Public Law 100-690, title V, subtitle D). The statute requires contractors and grantees of Federal agencies to certify that they will provide a drug-free workplace. Pursuant to these requirements, the applicable certification form must be completed by each applicant as a precondition for receiving Federal grant or cooperative agreement awards.

"Certification for Contract, Grants, Loans, and Cooperative Agreement" and SF-LLL, the "Disclosure of Lobbying Activities" (if applicable) is required in accordance with section 319 of Public Law 101-121, which generally prohibits recipients of Federal contracts, grants, and loans from using Legislative Branches of the Federal Government in connection with a specific contract, grant or loan. Form CD-511, "Certifications Regarding Debarment, Suspension and Other Responsibility Matter; Drug-Free Workplace Requirements and Lobbying" and, when applicable, the SF-LLL are required.

CLOSING DATE: The closing date for applications is May 29, 1992. Applications must be postmarked on or before May 29, 1992.

Note: Please mail completed application to the following address: Chicago Regional Office, 55 E. Monroe Street, Suite 1440, Chicago, Illinois 60603.

FOR APPLICATION KIT OR OTHER

INFORMATION CONTACT: Dallas Regional Office, 1100 Commerce Street, room 7B23, Dallas, Texas 75242. Attn: Yvonne Guevara, (214) 767-8001.

A pre-bid conference will be held on May 15, 1992 in the U.S. Federal Building, room 1431A on 517 Gold Ave., Albuquerque, New Mexico at 10 a.m.

SUPPLEMENTARY INFORMATION:

Anticipated processing time of this award is 120 days. Executive order 12372, "Intergovernmental Review of Federal Programs," is not applicable to this program. Questions concerning the preceding information, copies of application kits and applicable regulations can be obtained at the above address.

11.800 Minority Business Development
(Catalog of Federal Domestic Assistance)
Dated: April 17, 1992.

Melda Cabrera,

Regional Director, Dallas Regional Office.

[FR Doc. 92-9460 Filed 4-22-92; 8:45 am]

BILLING CODE 3510-21-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjustment of Import Limits for Certain Cotton and Man-Made Fiber Textile Products Produced or Manufactured in Indonesia

April 17, 1992.

AGENCY: Committee for the
Implementation of Textile Agreements
(CITA).

ACTION: Issuing a directive to the
Commissioner of Customs adjusting
limits.

EFFECTIVE DATE: April 24, 1992.

FOR FURTHER INFORMATION CONTACT:
Jennifer Tallarico, International Trade
Specialist, Office of Textiles and
Apparel, U.S. Department of Commerce,
(202) 377-4212. For information on the
quota status of these limits, refer to the
Quota Status Reports posted on the
bulletin boards of each Customs port or
call (202) 535-9480. For information on
embargoes and quota re-openings, call
(202) 377-3715.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March
3, 1972, as amended; section 204 of the
Agricultural Act of 1956, as amended (7
U.S.C. 1854).

The current limit for Categories 619/
620 is being increased for special swing,
reducing the limit for Categories 317/
617/326 to account for the increase.

A description of the textile and
apparel categories in terms of HTS
numbers is available in the
CORRELATION: Textile and Apparel
Categories with the Harmonized Tariff
Schedule of the United States (see
Federal Register notice 56 FR 60101,
published on November 27, 1991). Also
see 56 FR 26392, published on June 7,
1991.

The letter to the Commissioner of
Customs and the actions taken pursuant
to it are not designed to implement all of
the provisions of the bilateral
agreement, but are designed to assist

only in the implementation of certain of its provisions.

Auggie D. Tantillo,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

April 17, 1992.

Commissioner of Customs,

Department of the Treasury, Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on June 4, 1991, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton, wool, man-made fiber, silk blend and other vegetable fiber textiles and textile products, produced or manufactured in Indonesia and exported during the twelve-month period which began on July 1, 1991 and extends through June 30, 1992.

Effective on April 24, 1992, you are directed to amend further the directive dated June 4, 1991 to adjust the limits for the following categories, as provided under the terms of the current bilateral agreement between the Governments of the United States and Indonesia:

Category	Adjusted twelve-month limit ¹
317/617/326.....	18,009,258 square meters.
Sublevel in Group II	
619/620.....	5,865,192 square meters.

¹ The limits have not been adjusted to account for any imports exported after June 30, 1991.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Auggie D. Tantillo,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 92-9496 Filed 4-22-92; 8:45 am]

BILLING CODE 3510-DR-F

DEPARTMENT OF DEFENSE

Department of the Army

Army Science Board; Closed Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), announcement is made of the following Committee meeting:

Name of the Committee: Army Science Board (ASB).

Dates/Time of Meeting: 8 May 1992.

Time: 0900-1500 hours.

Place: Pentagon, Washington, DC.

The members of the ASB Study Group on Longbow for Apache and Comanche will meet with representatives from the TRADOC

Systems Managers Office who will present a user perspective on requirements and tactical scenarios. The Army Materiel Systems Analysis Activity will review their sensitivity analysis for the Longbow Fire Control Radar Stationary Target Indications.

Representatives of the Missile Command will discuss technology and classified parameters of the radar. This meeting will be closed to the public in accordance with section 552b(c) of title 5, U.S.C., specifically subparagraph (1) thereof, and title 5, U.S.C., appendix 2, subsection 10(d). The classified, proprietary, and unclassified matters to be discussed are so inextricably intertwined so as to preclude opening any portion of the meeting. The ASB Administrative Officer, Sally Warner, at (703) 695-0781/0782.

Sally A. Warner,

Administrative Officer, Army Science Board.

[FR Doc. 92-9581 Filed 4-22-92; 8:45 am]

BILLING CODE 3710-08-M

Army Science Board; Closed Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), announcement is made of the following Committee Meeting:

Name of the Committee: Army Science Board (ASB).

Dates of the Meeting: 11 May 1992.

Time: 1300-1630 Hours.

Place: Orlando, Florida.

Agenda: The Army Science Board (ASB) Systems Issue Group study on the "Evaluation of Longbow Apache and Comanche" will meet for review of the Longbow Fire Control Radar Risk Management Plan, and the risk reduction status. Other areas for discussion will include progress on targeting parameters and Longbow Apache Integration. This meeting will be closed to the public in accordance with section 552b(c) of title 5, U.S.C., specifically subparagraphs (1) and (4) thereof, and title 5, U.S.C., appendix 2, subsection 10(d). The classified and unclassified matters and proprietary information to be discussed is so inextricably intertwined so as to preclude opening any portion of the meeting. The ASB Administrative Officer, Sally Warner, may be contacted for further information (703) 695-0781.

Sally A. Warner,

Administrative Officer, Army Science Board.

[FR Doc. 92-9487 Filed 4-22-92; 8:45 am]

BILLING CODE 3710-08-M

Patent Licenses, Exclusive and Partially Exclusive; Gutleber, F.S.

AGENCY: U.S. Army Communications—Electronics Command, DOD.

ACTION: Notice of Prospective Exclusive and Partially Exclusive Licenses.

SUMMARY: In accordance with 37 CFR 404.7(a)(1)(i), announcement is made of prospective partially exclusive licenses of the following United States Patent

Numbers: 3,947,874, 3,955,197, 4,027,264, 4,032,884, 4,245,326, 4,275,397, 4,361,886, 4,431,999, 4,434,505, 4,455,662, 5,457,007, 4,460,992, 4,498,083, 4,500,883, 4,527,276, 4,529,963, 4,580,141, 4,617,570, 4,638,318.

DATES: Written objections must be filed on or before June 22, 1992.

FOR FURTHER INFORMATION CONTACT:

Mr. William Anderson, U.S. Army Communications—Electronics Command, ATTN: AMSEL-LG-L, Fort Monmouth, New Jersey 07703-5000, (908) 532-4112.

SUPPLEMENTARY INFORMATION: The above mentioned United States Patents involve two basic areas: the generation and compression (detection) of speed spectrum multiplexed noise codes and applications of these codes in communications, switching and control systems; and antenna technology. Rights to these patents are owned by the United States Government, as represented by the Secretary of the Army. Under the authority of section 11(a)(2) of the Federal Technology Transfer Act of 1986 (Pub. L. 99-502) and section 207 of title 35, United States Code, the Department of the Army, as represented by the Communications—Electronics Command, intends to grant exclusive or partially exclusive licenses for the above mentioned United States Patents to the following entities: Hiller Technologies, a Limited Partnership, 500 Alexander Part, CN23, Princeton, New Jersey 08543-0023; and

Pursuant to 37 CFR 404.7(a)(a)(i), any interested party may file written objections to these prospective exclusive or partially exclusive license arrangements. Written objections should be directed to: Mr. William H. Anderson, Intellectual Property Law Division, U.S. Army Communications—Electronics Command, ATTN: AMSEL-LG-L, Fort Monmouth, New Jersey 07703-5000.

Written objections must be filed within 60 days from the date of the publication of this notice in the Federal Register.

Kenneth L. Denton,

Army Federal Register Liaison Officer.

[FR Doc. 92-9444 Filed 4-22-92; 8:45 am]

BILLING CODE 3710-08-M

Department of the Navy

CNO Executive Panel; Notice of Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (5 U.S.C. app. 2), notice is hereby given

that the Chief of Naval Operations (CNO) Executive Panel will meet May 19, 1992, from 9 a.m. to 5 p.m. in Alexandria, Virginia.

The purpose of this meeting is to review maritime environment issues as they impact the naval vessel construction and operation and shore establishment environmental protection. The agenda of the meeting will consist of discussions of key issues related to environmental cleanup and protection of naval facilities.

For further information concerning this meeting, contact: Judith A. Holden, Executive Secretary to the CNO Executive Panel, 4401 Ford Avenue, room 601, Alexandria, Virginia 22302-0268, Telephone (703) 756-1205.

Dated: April 15, 1992.

Wayne T. Baucino,
Lieutenant, JAGC, U.S. Naval Reserve,
Alternate Federal Register Liaison Officer.
[FR Doc. 92-9497 Filed 4-22-92; 8:45 am]
BILLING CODE 3810-AE-F

Board of Visitors to the United States Naval Academy; Notice of Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (5 U.S.C. app. 2), notice is hereby given that the Board of Visitors to the United States Naval Academy will meet 4 May 1992, at the U.S. Naval Academy, Annapolis, Maryland. The session, which is open to the public will commence at 9 a.m. and terminate at 3 p.m., 4 May 1992, in room 301, Rickover Hall.

The purpose of the meeting is to make such inquiry as the Board shall deem necessary into the state of morale, discipline, the curriculum, instruction, physical equipment, fiscal affairs, and academic method of the Naval Academy.

For further information concerning this meeting contact: Lieutenant Commander Craig Diffie, U.S. Navy, Secretary to the Board of Visitors, Flag Secretary to the Superintendent, United States Naval Academy, Annapolis, Maryland 21402-5000, telephone (410) 267-2202/2402.

Dated: April 15, 1992.

Wayne T. Baucino,
Lieutenant, JAGC, U.S. Naval Reserve,
Alternate Federal Register Liaison Officer.
[FR Doc. 92-9445 Filed 4-22-92; 8:45 am]
BILLING CODE 3810-AE-F

Naval Research Advisory Committee; Closed Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (5

U.S.C. app. 2), notice is hereby given that the Naval Research Advisory Committee Panel on S & T Techbase Strategy in the Year 2010 will meet on May 11 and 12, 1992. The meeting will be held at the Office of the Chief of Naval Research, 800 North Quincy Street, room 915, Arlington, Virginia. The meeting will commence at 8 a.m. and terminate at 4:30 p.m. on May 11 and 12, 1992. All sessions of the meeting will be closed to the public.

The purpose of the meeting is to provide the Navy with an evaluation of the science and technology 'techbase' in the outyears. Discussions will focus on the current and perceived threat that will face the navy in the year 2010 and the technology that will be required to meet that threat. The agenda will include briefings, discussions, and technical presentations of information involving the current state of Basic Research, Basic Technology and Advanced Technology relative to the perceived threat of the 2010 timeframe. Public disclosure of this information will be likely to reveal national defense secrets and could significantly frustrate implementation of any proposed DON agency actions. Accordingly, the Secretary of the Navy has determined in writing that the public interest requires that all sessions of the meeting be closed to the public because they will be concerned with matters listed in section 552b(c)(1), and (9)(B) of title 5, United States Code.

For further information concerning this meeting contact: Commander John Hrenko, USN, Office of the Chief of Naval Research, 800 North Quincy Street, Arlington, VA 22217-5000, Telephone: (703) 696-4870.

Dated: April 14, 1992.

Wayne T. Baucino,
Lieutenant, JAGC, U.S. Naval Reserve,
Alternate Federal Register Liaison Officer.
[FR Doc. 92-9446 Filed 4-22-92; 8:45 am]
BILLING CODE 3810-AE-F

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. RP91-187-000 and CP91-2448-000]

Florida Gas Transmission Co.; Informal Settlement Conference

April 17, 1992.

Take notice that a conference will be convened in the above-referenced proceedings on May 11, 1992, at 1 p.m., and continuing at 10 a.m., on May 12, 1992, at the offices of the Federal Energy

Regulatory Commission, 810 First Street, NE., Washington, DC, for the purpose of exploring the possible settlement of the issues in this proceeding.

Any party, as defined by 18 CFR 385.102(c), or any participant, as defined by 18 CFR 385.102(b), is invited to attend. Persons wishing to become a party must move to intervene and receive intervenor status pursuant to the Commission's regulations (18 CFR 385.214) (1991).

For additional information, please contact Warren C. Wood at (202) 208-2091 or Donald Williams at (202) 208-0743.

Linwood A. Watson, Jr.,
Acting Secretary.
[FR Doc. 92-9615 Filed 4-22-92; 8:45 am]
BILLING CODE 6717-01-M

[Docket Nos. RP88-67-000, RP88-81-000, RP88-221-000, RP90-119-001, RP91-4-000, and RP91-119-000 (Phase I/Rates)]

Texas Eastern Transmission Corp.; Informal Settlement Conference

April 17, 1992.

Take notice that a conference of the Steering Committee is scheduled to be convened in this proceeding on Friday, April 24, 1992, at 10 a.m., at the offices of the Federal Energy Regulatory Commission, 810 First Street, NE., Washington, DC. Parties may designate anyone they wish for the Steering Committee, but business representatives are encouraged. Participants on the Steering Committee should include individuals who are in a position to commit their parties quickly on matters of substance.

Any party, as defined by 18 CFR 385.102(c), or any participant, as defined by 18 CFR 385.102(b), is invited to attend. Persons wishing to become a party must move to intervene and receive intervenor status pursuant to the Commission's regulations (18 CFR 385.214) (1991).

For additional information, please contact Dennis H. Melvin at (202) 208-0042 or Arnold H. Meltz at (202) 208-0737.

Linwood A. Watson, Jr.,
Acting Secretary.
[FR Doc. 92-9514 Filed 4-22-92; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. CP91-780-003]

Northwest Pipeline Corp.; Amendment

April 17, 1992.

Take notice that on April 16, 1992, Northwest Pipeline Corporation

(Applicant), 295 Chipeta Way, Salt Lake City, Utah 84158 filed in Docket No. CP91-780-003, pursuant to sections 7(b) and 7(c) of the Natural Gas Act, an application to amend Docket No. CP91-780-002, in order to reflect a resizing of certain of the originally proposed pipeline loops on the Grant Pass Lateral, all as more fully set forth in the amendment which is on file with the Commission and open for public inspection.

Applicant states that both a Preliminary Determination on non-environmental issues and a Final Environmental Impact Statement have been issued for Applicant's proposed \$373.4 million project to expand its system capacity by 433,415 Dth per day. Applicant further states that the previously evaluated project includes 8.7 miles of 20-inch and 79.4 miles of 16-inch, 12-inch and 10-inch pipeline loops on the Grants Pass Lateral in western Oregon.

At the request of its local distribution company customers in Oregon and the Oregon Public Utility Commission, Applicant proposes to redesign the pipeline loops proposed in the current expansion project for the Grants Pass Lateral in order to more efficiently accommodate the presently anticipated future expansion requirements on the Grants Pass Lateral. Applicant proposes to install 62.3 miles of 20-inch pipeline loop in place of the previously 79.4 miles of smaller diameter pipeline loops along the same segments of the Grants Pass Lateral. Specifically, Applicant proposes the following modifications in the previously proposed Grants Pass Lateral facilities.

(1) Oregon City South Loop—install approximately 17.5 miles of 20-inch pipeline (instead of 20.2 miles of 16-inch) to loop the existing 16-inch lateral southward from the Oregon City Compressor Station at Milepost (M.P.) 21.1 to a point of termination at the Molalla Meter Station, M.P. 38.6 (instead of at M.P. 41.3).

(2) Albany North Loop—install approximately 18.4 miles of 20-inch pipeline (instead of 23.8 miles of 12-inch) to loop the existing 12-inch lateral southward from M.P. 65.0 (instead of M.P. 59.6) to the Albany Compressor Station, M.P. 83.4.

(3) Albany South Loop—install approximately 26.4 miles of 20-inch pipeline (instead of 34.3 miles of 10-inch and 1.0 mile of 16-inch) to loop the existing 10-inch lateral southward from the Albany Compressor Station (M.P. 83.5) to a point of termination at M.P. 109.9 (instead of M.P. 118.4). Also, because of the new termination point for the proposed loop, Applicant no longer

proposes to abandon the 0.8 miles of the existing 10-inch lateral line which was to be replaced by the previously proposed 16-inch pipeline segment at the southern end of the originally proposed loop.

(4) Salem Meter Station Crossover Tap and Coburg Meter Station Crossover Tap—the originally proposed crossover taps to tie these two meter stations to the new Albany North and Albany South loop lines, respectively, are eliminated from the project because the herein proposed shorter loops do not extend to the locations of these meter stations.

Applicant states that the originally proposed mainline and crossover valves associated with the loop pipeline will be resized and relocated to match the proposed changes in the loop pipeline.

Applicant indicates that the proposed facility design modifications will result in an overall cost estimate increase of \$100,000. Applicant further indicates that the resulting increase in the total estimated cost of Applicant's system expansion project from \$373.4 million to \$373.5 million is less than one-twentieth of a percent. Applicant proposes to finance the construction cost of its system expansion with short-term bank borrowings. Applicant proposes to convert the short-term bank borrowings to an appropriate mix of long-term debt and equity which will provide an overall corporate capital structure of approximately 45% long-term debt and 55% equity.

Applicant states that the proposed modified loops will provide the same incremental capacity enhancement on the Grants Pass Lateral as the originally proposed loops. Further, Applicant states that, although the pipe diameter is increasing, the proposed shorter loops will utilize the same right-of-way, work space and construction procedures as originally proposed for the subject loops.

Any person desiring to be heard or to make any protest with reference to said amendment should on or before April 27, 1992 file with the Federal Energy Regulatory Commission, Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with

the Commission's Rules. All persons who have heretofore filed need not file again.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 92-9519 Filed 4-22-92; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP91-203-009]

Tennessee Gas Pipeline Co., Notice of Compliance Filing

April 16, 1992.

Take notice that on April 14, 1992 Tennessee Gas Pipeline Company (Tennessee) filed changes in its FERC Gas Tariff pursuant to the Commission's April 2, 1992 order in the captioned proceeding. The following revised tariff sheets are to be effective February 1, 1992:

Appendix A

2nd Sub. 6th Revised Sheet No. 20
2nd Sub. Original Sheet No. 20A
2nd Sub. 6th Revised Sheet No. 21
2nd Sub. Original Sheet No. 21A
3rd Sub. Sixth Revised Sheet No. 22
2nd Sub. 4th Revised Sheet No. 23
2nd Sub. 3rd Revised Sheet No. 24
2nd Sub. Original Sheet No. 24A
2nd Sub. 4th Revised Sheet No. 25
2nd Sub. Original Sheet No. 25A
2nd Sub. 4th Revised Sheet No. 26
2nd Sub. Original Sheet No. 26A
2nd Sub. 2nd Revised Sheet No. 28
2nd Sub. Original Sheet No. 28A
4th Sub. 25th Revised Sheet No. 5
4th Sub. Original Sheet No. 5A
2nd Sub. 24th Revised Sheet No. 6
2nd Sub. Original Sheet No. 6A
2nd Sub. Eighth Revised Sheet No. 7
2nd Sub. Original Sheet No. 7A
2nd Sub. Original Sheet No. 8
2nd Sub. Original Sheet No. 8A
2nd Sub. 8th Revised Sheet No. 9
2nd Sub. Original Sheet No. 9A
Substitute 13th Revised Sheet No. 10
2nd Substitute Original Sheet No. 10A

Tennessee's filing also includes the following alternative tariff sheets:

Appendix B

Alternate 2nd Sub. 6th Revised Sheet No. 20
Alternate 2nd Sub. Original Sheet No. 20A
Alternate 2nd Sub. 6th Revised Sheet No. 21
Alternate 2nd Sub. Original Sheet No. 21A
Alternate 3rd Sub. Sixth Revised Sheet No. 22
Alternate 2nd Sub. 4th Revised Sheet No. 23
Alternate 2nd Sub. 3rd Revised Sheet No. 24
Alternate 2nd Sub. Original Sheet No. 24A
Alternate 2nd Sub. 4th Revised Sheet No. 25
Alternate 2nd Sub. Original Sheet No. 25A
Alternate 2nd Sub. 4th Revised Sheet No. 26
Alternate 2nd Sub. Original Sheet No. 26A
Alternate 2nd Sub. 2nd Revised Sheet No. 28
Alternate 2nd Sub. Original Sheet No. 28A
Alternate 4th Sub. 25th Revised Sheet No. 5
Alternate 4th Sub. Original Sheet No. 5A
Alternate 2nd Sub. 24th Revised Sheet No. 6
Alternate 2nd Sub. Original Sheet No. 6A

Alternate 2nd Sub. Eighth Revised Sheet No. 7

Alternate 2nd Sub. Original Sheet No. 7A

Alternate 2nd Sub. Original Sheet No. 8

Alternate 2nd Sub. Original Sheet No. 8A

Alternate 2nd Sub. 8th Revised Sheet No. 9

Alternate 2nd Sub. Original Sheet No. 9A

Alternate Substitute 13th Revised Sheet No. 10

Alternate 2nd Substitute Original Sheet No. 10A

Tennessee states that the revised tariff sheets reflect the following changes:

1. Elimination of the costs of facilities not in service by January 31, 1992;

2. Contract demand levels as of January 31, 1992;

Tennessee further states that the revised tariff sheets also reflect the (1) Surcharge for Amortizing the Unrecovered Purchased Gas Cost Account, (2) Current Purchased Cost Rate, (3) GRI Rate Adjustment, and (4) Annual Charge Adjustment, as shown in Tennessee's November 1, 1991 filing in Docket No. TA92-1-9, effective on January 1, 1991. Tennessee also states that the revised tariff sheets reflect the Transition Cost Rate Surcharges contained in Tennessee's November 29, 1991 filing in Docket No. RP92-51.

Tennessee states that the alternate sheets in Appendix B reflect the rates resulting from strict compliance to the Commission's order of August 30 in this docket and the primary sheets in Appendix A reflect reductions to certain rates so that they do not exceed those originally filed.

Tennessee states that copies of the filing have been mailed to all parties on the official service list in this proceeding, affected customers and affected state regulatory commissions.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with rule 211 of the Commission's Rules of Practice and Procedure 18 CFR 385.211. All such protests should be filed on or before April 23, 1992. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 92-9297 Filed 4-22-92; 8:45 am]

BILLING CODE 6717-01-M

Office of Energy Research

Special Research Grant Program Notice 92-13: Human Genome Program—Technological Advances

AGENCY: Department of Energy (DOE).

ACTION: Notice inviting grant applications.

SUMMARY: The Office of Health and Environmental Research (OHER) of the Office of Energy Research (ER), U.S. Department of Energy hereby announces its interest in receiving applications for Special Research Grants in support of the Human Genome Program. This Program is a coordinated multidisciplinary research effort aimed at developing creative, innovative resources and technologies which will lead to a detailed understanding of the human genome at the molecular level. Several research goals are encompassed in this notice: (1) Research will be supported for development and implementation of automated chromosome mapping technologies and advanced DNA sequencing technologies, specifically, innovative instrumentation and automated systems that offer the potential for rapid, cost-effective sequencing of a million bases per day, which includes non-gel techniques and direct imaging approaches; (2) Research will be supported to develop software for applied genome informatics for use in DNA mapping and sequencing. Such work includes information retrieval, user interfaces including interfaces compatible with Genome Data Base (GDB), databases, communications, algorithms, software engineering, and data management. Also desired are improved algorithms and hardware for analyzing DNA sequences, including identification of homologies, regulatory sites, and protein coding regions.

Before preparing a formal application, potential applicants are encouraged to submit a brief preapplication in accordance with 10 CFR 600.10(d)(2), which consists of two to three pages of narrative describing the research project objectives and methods of accomplishment. These will be reviewed relative to the scope and research needs of the DOE Human Genome Program. Preapplications referencing Program Notice 92-13 should be received by May 15, 1992, and sent to Dr. David A. Smith, Office of Health and Environmental Research, ER-72 (GTN), Washington, DC 20585, (301) 903-6488. Telephone and telefax numbers are required parts of the preapplication. A response to the preapplications discussing the potential program relevance of a formal

application generally will be communicated within 30 days of receipt.

DATES: Formal applications submitted in response to this notice must be received by 4:30 p.m., e.d.t., August 7, 1992, to be accepted for merit review in October 1992 and to permit timely consideration for award in Fiscal Year 1993.

ADDRESS: Formal applications referencing Program Notice 92-13 should be forwarded to: U.S. Department of Energy, Office of Energy Research, Acquisition and Assistance Management Division, ER-64, room G-236, Washington, DC 20585, ATTN: Program Notice 92-13. The following address must be used when submitting applications by U.S. Postal Service Express, any commercial mail delivery service, or when handcarried by the applicant: U.S. Department of Energy, Acquisition and Assistance Management Division, ER-64, 19901 Germantown Road, Germantown, MD 20874.

FOR FURTHER INFORMATION CONTACT: Dr. David A. Smith, Office of Health and Environmental Research, ER-72 (GTN), Office of Energy Research, U.S. Department of Energy, Washington, DC 20585, (301) 903-6488.

SUPPLEMENTARY INFORMATION: It is anticipated that approximately \$2.2M will be available for grant awards during FY 1993, contingent upon availability of appropriated funds. Multiple year funding of grant awards is expected, and is also contingent upon availability of funds. Previous awards have ranged from \$79 thousand per year up to \$1 million per year (total costs) with terms from 1 to 3 years. Most awards are in the \$200 thousand to \$400 thousand per year (total costs) range for 3 years. Similar award sizes are anticipated for new grants. Information about development and submission of applications, eligibility, limitations, evaluation, selection process, and other policies and procedures may be found in the ER Application and Guide for the Special Research Grants Program and 10 CFR part 605. The OER, as part of its grant regulations, requires at 10 CFR 605.11(b) that a grantee funded by OER and performing research involving recombinant DNA molecules and/or organisms and viruses containing recombinant DNA molecules shall comply with the National Institutes of Health "Guidelines for Research Involving Recombinant DNA Molecules" (51 FR 16958, May 7, 1986), or such later revision of those guidelines as may be published in the Federal Register. The dissemination of materials and research data in a timely manner is essential for

progress towards the goals of the DOE Human Genome Program. OHER requires the timely sharing of resources and data. Applicants should, in their applications, discuss their plans for disseminating research data and materials which may include, where appropriate, putting cell lines, probes, sequence data, etc., into public repositories. Funds to defray the costs of disseminating materials or submitting data to repositories are allowable; however, such requests must be adequately justified.

The application kit and guide is available from the U.S. Department of Energy, Acquisition and Assistance Management Division, Office of Energy Research, ER-64, Washington, DC 20585. Telephone requests may be made by calling (301) 903-6488 or FTS 233-6488. Instructions for preparation of an application are included in the application kit. The Catalog of Federal Domestic Assistance Number for this program is 81.049.

Issued in Washington, DC on April 16, 1992.
D.D. Mayhew,
Deputy Director for Management, Office of Energy Research.
[FR Doc. 92-9530 Filed 4-22-92; 8:45 am]
BILLING CODE 6450-01-M

Special Research Grant Program Notice 92-16: Health Effects Research

AGENCY: Department of Energy (DOE).
ACTION: Notice inviting grant applications.

SUMMARY: The Office of Health and Environmental Research (OHER) of the Office of Energy Research (ER), U.S. Department of Energy, hereby announces its interest in receiving applications for Special Research Grants in support of the Health Effects Research Program. The primary objective of this Program is to develop the information base necessary to identify, understand, anticipate, and mitigate the health consequences of exposure to energy-related agents (e.g., radiation or chemical). The Program examines radiological and chemical effects at all levels of biology including molecular, cellular, tissue/organ, and whole animals, and its uses these findings to develop a mechanistic understanding of effects and to provide the information necessary for predicting risk from exposure. The biological resources and the new technologies that are being developed in the Human Genome Program are revolutionizing the ability to detect and quantify genetic damage leading to mutations, tumors,

and other health endpoints. The DOE is seeking applications that exploit these technological advances and that provide new information that can be used to gain a better understanding of impacts on humans who are exposed to low-dose radiation and/or toxic chemicals. While the research covered by this Program is broad in scope, the current solicitation is seeking preapplication primarily in the following three areas: (1) DNA repair; (2) cellular and molecular mechanisms of carcinogenesis (especially those using human cell systems); and (3) low dose radiation studies, <10cGy, that will improve our understanding of the dose effect relationships at low doses.

Before preparing a formal application, potential applicants are encouraged to first submit a brief preapplication in accordance with 10 CFR 600.10(d)(2) which consists of two to three pages of narrative describing the research project objectives and method of accomplishment. These will be reviewed relative to the scope and the research needs of the Health Effects Research Program. Preapplication referencing Program Notice 92-16 should be received by May 29, 1992, and sent to the following address: Dr. Marvin E. Frazier, Office of Health and Environmental Research, ER-72 (GTN), Washington, DC 20585, (301) 903-5364, FAX 903-7363. Telephone and telefax numbers are required to be part of a preapplication. A response to the preapplication discussing the potential programmatic relevance of a formal application will be communicated by June 22, 1992.

DATES: Formal applications submitted in response to this Notice must be received by 4:30 p.m., e.d.t., August 21, 1992, to be accepted for merit review in October 1992 and to permit timely consideration for award in Fiscal Year 1993.

ADDRESSES: Formal applications referencing Program Notice 92-16 should be forwarded to: U.S. Department of Energy, Office of Energy Research, Acquisition and Assistance Management Division, ER-64, Mail Stop G-236, Washington, D.C. 20585, ATTN: Program Notice 92-16. The following address must be used when submitting applications by U.S. Postal Service Express, any commercial mail delivery service or when hand carried by the applicant: U.S. Department of Energy, Acquisition and Assistance Management Division, ER-64, 19901 Germantown Road, Germantown, MD 20874.

FOR FURTHER INFORMATION CONTACT: Dr. Marvin E. Frazier, Office of Health

and Environmental Research, ER-72 (GTN), Office of Energy Research, U.S. Department of Energy, Washington, DC 20585, (301) 903-5364.

SUPPLEMENTARY INFORMATION: Through this solicitation, DOE plans to support new research in specific areas of interest that include: DNA repair, molecular mechanisms of carcinogenesis, and mechanistic studies that examine the dose response relationship at low doses (<10cGy).

With this notice DOE is soliciting grant applications to map, clone, and investigate the biochemistry of human DNA repair genes. Research is needed that will examine the interactions between DNA repair proteins, DNA, and other macromolecules in order to better define the processes responsible for the repair or fixation of DNA damage. Better methods are also solicited for identifying and characterizing new and modified gene products that are produced in response to damage by physical and/or chemical agents. The DOE is also interested in the use of transgenic cell lines and transgenic animals, in which repair-related genes have been mutagenized or "knocked out", to measure their influence on normal processes of growth and differentiation, genomic instability, gene expression, and DNA repair. The DOE is soliciting research to improve assays for detecting, in humans, mutated DNA repair genes (both homozygous and heterozygous) that may alter susceptibility to DNA damaging agents.

The DOE is requesting research that elucidates the molecular and cellular events underlying spontaneous and induced genetic and epigenetic events that lead to cancer, heritable mutations, and/or congenital malformations. Priority will be given to the use of human cells systems, e.g., stem cells and/or cells for transgenic animals, for examining the effects of dose, dose rate and linear energy transfer (LET) on viability, mutation induction, chromosomal damage, DNA repair, cell transformation, and progression to malignancy.

The most frequent radiation exposures for most people are low-dose, low-dose-rate exposures. The basic hypothesis of risk assessors is that the frequency of low level radiation effects increases as a linear, non-threshold function with dose. The DOE is soliciting research that will test this hypothesis at levels of <10cGy. These studies can include examination of how the cellular and molecular processes

that lead to cancer are influenced by dose, dose rate, or LET. The DOE is also interested in effects of radiation of chemicals on the genetic stability of exposed cells. Recent data suggests that clonal progeny of irradiated cells exhibit a persistently elevated frequency of spontaneous mutations and nonclonal chromosomal aberrations for many populations post-irradiation. It is important to understand the mechanism of these effects, their role in carcinogenesis, and the exposures necessary to trigger the response.

It is anticipated that approximately \$2 million will be available for grant awards during FY 1993, contingent upon availability of appropriated funds. Multiple year funding of grants awards is expected, and is also contingent upon availability of funds. Previous awards have ranged from \$90 thousand per year up to \$400 thousand per year (total costs) with terms from 1 to 3 years. Most awards are in the \$150 thousand to \$300 thousands per year (total costs) range for 3 years. Similar award sizes are anticipated for new grants. Information about development and submission of applications, eligibility, limitations, evaluation, selection process, and other policies and procedures may be found in the ER Application and Guide for the Special Research Grants Program and 10 CFR part 605. ER, as part of its grant regulations, requires at 10 CFR 605.11(b) that a grantee funded by ER and performing research involving recombinant DNA molecules and/or organisms and viruses containing recombinant DNA molecules shall comply with the National Institutes of Health "Guidelines for Research Involving Recombinant DNA Molecules" (51 FR 16958, May 7, 1986), or such later revisions of those guidelines as may be published in the *Federal Register*. The application kit and guide is available from the U.S. Department of Energy, Acquisition, and Assistance Management Division, Office of Energy Research, ER-64, Washington, DC 20585. Telephone request may be made by calling (301) 903-5468 or FTS 233-5468. Instructions for preparation of an application are included in the application kit. The Catalog of Federal Domestic Assistance Number for this program is 81.049.

Issued in Washington, DC on April 16, 1992.
D.D. Mayhew,

Deputy Director for Management, Office of Energy Research.

[FR Doc. 92-9529 Filed 4-22-92; 8:45 am]

BILLING CODE 6450-01-M

Office of Fossil Energy

[FE Docket No. 91-111-NG]

BridgeGas U.S.A., Inc.; Order Granting Blanket Authorization To Export Natural Gas to Mexico

AGENCY: Department of Energy, Office of Fossil Energy.

ACTION: Notice of an order granting blanket authorization to export natural gas to Mexico.

SUMMARY: The Office of Fossil Energy of the Department of Energy gives notice that it has issued an order granting BridgeGas U.S.A., Inc., blanket authorization to export to Mexico up to 98.55 Bcf of natural gas on a short-term or spot market basis over a two-year period beginning on the date of first export.

A copy of this order is available for inspection and copying in the Office of Fuels Programs Docket Room, 3F-056, Forrestal Building, U.S. Department of Energy, 1000 Independence Avenue SW., Washington, DC 20585, (202) 586-9478. The docket room is open between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC, April 17, 1992.
Charles F. Vacek,

Deputy Assistant Secretary for Fuels Programs, Office of Fossil Energy.

[FR Doc. 92-9533 Filed 4-22-92; 8:45 am]

BILLING CODE 6450-01-M

[FE Docket No. 92-06-NG]

Sergeant Oil & Gas Co., Inc.; Order Granting Blanket Authorization To Export Natural Gas to Mexico

AGENCY: Office of Fossil Energy, Department of Energy.

ACTION: Notice of order granting blanket authorization to export natural gas.

SUMMARY: The Office of Fossil Energy of the Department of Energy gives notice that it has issued an order granting Sergeant Oil & Gas Co., Inc., blanket authorization to export up to 30 Bcf of natural gas to Mexico over a two-year period beginning on the date of first delivery.

A copy of this order is available for inspection and copying in the Office of Fuels Programs Docket Room, 3F-056, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586-9478. The docket room is open between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC, April 17, 1992.

Charles F. Vacek,

Deputy Assistant Secretary for Fuels Programs, Office of Fossil Energy.

[FR Doc. 92-9531 Filed 4-22-92; 8:45 am]

BILLING CODE 6450-01-M

[FE Docket No. 91-115-NG]

CMEX Energy, Inc.; Order Granting Authorization To Import and Export Natural Gas, Including Liquefied Natural Gas

AGENCY: Office of Fossil Energy, Department of Energy.

ACTION: Notice of an order granting blanket authorization to import and export natural gas, including liquefied natural gas.

SUMMARY: The Office of Fossil Energy of the Department of Energy gives notice that it has issued an order granting CMEX Energy, Inc. blanket authorization to import and export up to a combined total of 100 Bcf of natural gas, including liquefied natural gas, over a two-year period commencing with the date of first import or export after April 30, 1992, the date of its current blanket import/export authority expires.

A copy of this order is available for inspection and copying in the Office of Fuels Programs Docket Room, 3F-056, Forrestal Building, U.S. Department of Energy, 1000 Independence Avenue SW., Washington, DC 20585, (202) 586-9478. The docket room is open between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC, April 17, 1992.

Charles F. Vacek,

Deputy Assistant Secretary for Fuels Programs, Office of Fossil Energy.

[FR Doc. 92-9532 Filed 4-22-92; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[OPP-00317; FRL 4061-7]

Lawn Care Pesticide Advisory Committee

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of establishment and announcement of open meeting.

SUMMARY: As required by section 9(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), EPA's Office of Prevention, Pesticides and Toxic Substances (OPPTS) is giving notice of the establishment of the Lawn Care

Pesticide Advisory Committee to foster an exchange of information and provide advice to the Office of Prevention, Pesticides and Toxic Substances on issues related to the lawn care use of pesticides. OPPTS is also announcing that a meeting of the LCPAC will be held on May 12 and 13, 1992.

DATES: The meeting will be held on May 12, 1992 from 8:30 a.m. to 5 p.m., and on May 13, 1992 from 8:30 a.m. to 12 noon.

ADDRESS: The meeting will be held at the Maryland Inn, 16 Church Circle, Annapolis, MD.

FOR FURTHER INFORMATION CONTACT: Michael Firestone, Office of Prevention, Pesticides, and Toxic Substances (TS-788), 401 M St., SW., Washington, DC 20460, (202) 280-2897.

SUPPLEMENTARY INFORMATION: As required by section 9(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), EPA's Office of Prevention, Pesticides and Toxic Substances (OPPTS) is giving notice of the establishment of the Lawn Care Pesticide Advisory Committee (LCPAC). Copies of the LCPAC's Charter will be filed with the appropriate committees of Congress and the Library of Congress.

The LCPAC Committee will be composed of a balanced group of participants from the lawn and garden care service industry, pesticide manufacturers and formulators, environmental and consumer advocates, congressional staff, and public sector representatives including State health and pesticide regulatory officials, and other Federal Government officials. EPA anticipates the outcome of this meeting to be written proceedings which can serve as educational material for those in the government (Federal, State, and local) and the private sector.

The Committee's first meeting will be held on May 12-13, 1992, at the Maryland Inn, Annapolis, MD. The purpose of this meeting is to help EPA gain further insight on four topics, identified by EPA staff, which the agency believes are good candidates for achieving progress in the near term. These four are: (1) Registries; (2) posting and notification; (3) communication, education, and training; and (4) advertising guidelines. Three other topics, exposure monitoring and assessment methodology research, benefits assessments, and label improvement have been identified by EPA as requiring longer-term approaches.

Since space is limited, those wishing to attend the meeting as observers should contact the LCPAC Designated Federal Official, Michael Firestone at

the phone number listed under FOR FURTHER INFORMATION CONTACT.

In conjunction with the formation of this Advisory Committee, EPA is setting up an open docket which will include all supporting material for the LCPAC. This material will be available for public review at the following address: U.S. Environmental Protection Agency, room 1128, Crystal Mall #2, 2921 Jefferson Davis Highway, Arlington, VA (703) 305-5805.

Dated: April 16, 1992.

Victor J. Kimm,

Acting Assistant Administrator for Prevention, Pesticides and Toxic Substances.

[FR Doc. 92-9516 Filed 4-22-92; 8:45 am]

BILLING CODE 6560-50-F

FEDERAL COMMUNICATIONS COMMISSION

Public Information Collection Requirement Submitted to Office of Management and Budget for Review

April 17, 1992.

The Federal Communications Commission has submitted the following information collection requirement to OMB for review and clearance under the Paperwork Reduction Act of 1980 (44 U.S.C. 3507).

Copies of this submission may be purchased from the Commission's copy contractor, Downtown Copy Center, 1114 21st Street, NW., Washington, DC 20036, (202) 452-1422. For further information on this submission contact Judy Boley, Federal Communications Commission, (202) 632-7513. Persons wishing to comment on this information collection should contact Jonas Neihardt, Office of Management and Budget, Room 3235 NEOB, Washington, DC 20503, (202) 395-4814.

OMB Number: 3060-0419.

Title: Sections 76.94, 76.155, 76.157, and 76.159—Syndicated Exclusivity/Network Non-duplication Rights.

Action: Extension of a currently approved collection.

Respondents: Businesses or other for-profit (including small businesses).

Frequency of Response: On occasion reporting.

Estimated Annual Burden: 772,548 responses; 0.24 hours average burden per response; 173,412 hours total annual burden.

Needs and Uses: The notifications by broadcasters and program suppliers will provide cable systems with information on programs for which the TV stations and program suppliers have syndicated exclusivity/network non-duplication rights. The data

provided to cable systems by distant TV stations will be used to determine when the programs subject to deletion will be aired, so that the cable system can delete carriage of the station's signal at the appropriate time. These rules will permit, but not require, broadcasters and program distributors to obtain the same enforceable exclusive rights in syndicated programming that all other video programming distributors possess.

Federal Communications Commission.

Donna R. Searcy,

Secretary.

[FR Doc. 92-9502 Filed 4-22-92; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL DEPOSIT INSURANCE CORPORATION

Information Collection Submitted to OMB for Review

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Notice of information collection submitted to OMB for review and approval under the Paperwork Reduction Act of 1980.

SUMMARY: In accordance with requirements of the Paperwork Reduction Act of 1980 (44 U.S.C. chapter 35), the FDIC hereby gives notice that it has submitted to the Office of Management and Budget a request for OMB review of the information collection system described below.

Type of Review: Extension of the expiration date of a currently approved collection without any change in the substance or method of collection.

Title: Recordkeeping and Confirmation Requirements for Securities Transactions.

Form Number: None.

OMB Number: 3064-0028.

Expiration Date of OMB Clearance: July 31, 1992.

Frequency of Response: Recordkeeping, on occasion.

Respondents: Insured State nonmember banks effecting securities transactions.

Number of Recordkeepers: 6,684.

Annual Hours Per Recordkeeper: 19.31.

Total Annual Burden Hours: 129,065.

OMB Reviewer: Gary Waxman, (202) 395-7340, Office of Management and Budget, Paperwork Reduction Project (3064-0028), Washington, DC 20503.

FDIC Contact: Steven F. Hanft, (202) 898-3907, Office of the Executive Secretary, room F-400, Federal Deposit Insurance Corporation, 550

17th Street NW., Washington, DC 20429.

Comments: Comments on this collection of information are welcome and should be submitted before June 22, 1992.

ADDRESSES: A copy of the submission may be obtained by calling or writing the FDIC contact listed above. Comments regarding the submission should be addressed to both the OMB reviewer and the FDIC contact listed above.

SUPPLEMENTARY INFORMATION: The FDIC requires that insured state nonmember banks provide their securities customers with adequate information concerning their securities transactions. The banks are also required to maintain adequate records and controls with respect to the securities transactions they effect.

Dated: April 17, 1992.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,
Executive Secretary.

[FR Doc. 92-9428 Filed 4-22-92; 8:45 am]

BILLING CODE 6714-01-M

GENERAL SERVICES ADMINISTRATION

Federal Property Resources Service

[Wildlife Order 180; 7-D-MO-0607-E]

Portion, Harry S. Truman Dam and Reservoir, Missouri; Transfer of Property

Pursuant to section 2 of Public Law 537, 80th Congress, approved May 19, 1948 (16 U.S.C. 667c), notice is hereby given that:

1. By transfer letter from the General Services Administration, dated February 2, 1992, the property consisting of 120.60 acres of unimproved land, known as a Portion, Harry S. Truman Dam and Reservoir, Missouri, has been transferred to the U.S. Fish and Wildlife Service, Department of the Interior.

2. The above described property was transferred for wildlife conservation in accordance with the provisions of Section 1 of said Public Law 80-537 (16 U.S.C. 667b), as amended by Public Law 92-432.

Dated: April 13, 1992.

Earl E. Jones,
Commissioner.

[FR Doc. 92-9493 Filed 4-22-92; 8:45 am]

BILLING CODE 6820-96-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Alcohol, Drug Abuse, and Mental Health Administration

Request for Applications: Capacity Expansion Program

AGENCY: Alcohol, Drug Abuse, and Mental Health Administration, HHS.

ACTION: Correction notice.

SUMMARY: Public notice was given in the Federal Register on April 20, 1992, Volume 57, No. 76, on pages 14407-14418 that the Office for Treatment Improvement (OTI), in its role of implementing demand reduction programs under the Office of National Drug Control Policy (ONDCP) National Drug Control Strategy is soliciting State applications for the creation of new addiction treatment capacity in high-incidence jurisdictions of greatest need under its FY 1992 Treatment Capacity Program.

The name, address, and telephone numbers provided in the notice on page 14412 (second and third columns) for the following items were listed incorrectly: (1) the receipt point to which SPOC State recommendations should be sent; (2) the receipt point to which the original and two copies of the application form (PHS 5161-1) should be sent; and (3) the location where PHS 5161-1 application kits containing the necessary forms and instructions are available. The correct name, address, and telephone number for all three of these items is: Capacity Expansion Program, UIS, 3206 Tower Oaks Boulevard, Rockville, Maryland 20852, Telephone No. (301) 984-4222.

All other information in the document is correct.

Dated: April 20, 1992.

Joseph R. Leone,
Associate Administrator for Management.

[FR Doc. 92-9534 Filed 4-22-92; 8:45 am]

BILLING CODE 4160-20-M

Centers for Disease Control

[Program Announcement Number 244]

Implementing Hazardous Substances Training for Emergency Responders; Availability of Funds for Fiscal Year 1992

Introduction

The Centers for Disease Control (CDC), the Nation's prevention agency, announces the availability of Fiscal Year 1992 funds for a cooperative agreement to conduct a hazardous substance training program for firefighters.

The Public Health Service (PHS) is committed to achieving the health promotion and disease prevention objectives of Healthy People 2000, a PHS-led national activity to reduce morbidity and mortality and improve the quality of life. This announcement is related to the priority area of Occupational Safety and Health (for ordering Healthy People 2000 see the section where to obtain additional informational.)

Authority

This program is authorized under section 21(a) of the Occupational Safety and Health Act of 1970 [29 U.S.C. 670(a)].

Eligible Applicants

Eligible applicants include nonprofit and for-profit organizations. Thus, universities, colleges, research institutions, groups representing firefighters, hospitals, and other public and private organizations, state and local health departments and agriculture departments, and small, minority and/or women-owned businesses are eligible for this cooperative agreement.

Availability of Funds

Approximately \$500,000 will be available in Fiscal Year 1992 to fund one cooperative agreement. The award is expected to begin on or about September 30, 1992, for a 12-month budget period within a project period of five years. Funding estimates may vary and are subject to change. Continuation awards within the project period will be made on the basis of satisfactory progress and the availability of funds.

Purpose

The purpose of this award is to assist in the implementation of a national hazardous substance training program for firefighters in the area of hazardous materials emergency response.

Program Requirements

In conducting activities to achieve the purpose of this program, the recipient shall be responsible for conducting activities under A, below, and CDC be responsible for conducting activities under B, below.

A. Recipient Activities

1. Develop a complete plan of action to establish a five year training program for various levels of hazardous materials emergency response.
2. Identify and select regions and populations for training based on a list of criteria to be developed by the applicant and conduct a survey of the needs for various levels of firefighter responder training.

3. Designate specific levels of training, amount of training and staff personnel to be trained in each year.

4. In collaboration with National Institute for Occupational Safety and Health (NIOSH), develop additional curricula on special topics or hazard areas identified in the needs survey. Develop a program for initial training, refresher training, and updated skills training. Course materials utilized will be those which meet federal and national requirements (OSHA, NFPA) and which have been developed specifically for firefighter training under the NIEHS worker training program. NIOSH trainee registration forms (CDC/NIOSH[C] 2.20) will be completed by each trainee.

5. Develop a plan to select and train faculty to conduct training classes. Audio-visual support, space, facilities, and equipment will be provided by the recipient.

6. Select participants and conduct training programs for firefighter for various levels of hazardous materials emergency response.

7. Document and conduct an evaluation program to measure the impact of the training.

8. In collaboration with NIOSH, evaluate the efficacy and use of training through a variety of mechanisms.

9. Collaborate with NIOSH in disseminating training information to appropriate personnel.

B. CDC Activities

1. Provide technical assistance and consultation, through site visits and correspondence, in the areas of identifying needs, program development and implementation.

2. Provide scientific and technical collaboration in the development of curriculum materials and their subsequent review.

3. Provide on site technical consultation during the training program with recommendations to assist the trainers.

4. Provide training materials, such as video tapes and published documents, to the recipient, when appropriate and needed.

5. Provide technical assistance in the evaluation of the results and efficacy of the training conducted.

6. Assist in the dissemination of training information to appropriate personnel.

Evaluation Criteria

Applications will be reviewed and evaluated according to the following criteria:

1. Responsiveness to the objectives of the cooperative agreement including: (a)

the applicant's understanding of the objectives of the proposed cooperative agreement, and (b) the relevance of the proposal to the objectives. (20%)

2. Feasibility of meeting the proposed goals of the cooperative agreement including: (a) The proposed schedule for initiating and accomplishing each of the activities of the cooperative agreement and, (b) the proposed method for evaluating the accomplishments. (20%)

3. Strength and comprehensiveness of the training program plan which addresses the distinct characteristics and needs of the target audience and which includes the essential program elements for planning, conducting and evaluating training programs. (25%)

4. Training and experience of the Program Director and staff including: (a) Program Director with experience in grants management and with technical expertise and education in the hazardous substance field, (b) faculty with training and experience in the appropriate technical content areas, and (c) staff with experience in developing curricula in hazardous materials in emergency response and in studying health and safety issues in the target population. (15%)

5. The capability of accessing national firefighters who have responsibility for hazardous materials emergency response in order to ensure consistency in delivering training programs, credibility with state and local institutions, fire marshals and firefighters and the ability to bring in replacement teams for trainees, and accessibility to state and local educational institutions for target worker populations. (10%)

6. Experience in delivering health and safety programs for the target population, particularly in a labor-management cooperative environment. (10%)

7. The budget will be evaluated to the extent it is reasonable, clearly justified, and consistent with the intended use of funds. (Not Scored)

Other Requirements

Projects that involve the collection of information from 10 or more individuals and funded by cooperative agreement will be subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act.

Executive Order 12372 Review

Applications are not subject to review by Executive Order 12372, Intergovernmental Review of Federal Programs.

Catalog of Federal Domestic Assistance Number (CFDA)

The Catalog of Federal Domestic Assistance Number for this program is 93.283.

Application Submission and Deadline

The original and two copies of the application PHS Form 5161-1 must be submitted to Henry S. Cassell, III, Grants Management Officer, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control, 255 East Paces Ferry Road NE., room 300, Atlanta, Georgia 30305, on or before June 24, 1992.

1. Deadline.

Applications will be considered to have met the deadline if they are either:

a. Received on or before the deadline date, or

b. Sent on or before the deadline date and received in time for submission to the review group. Applicants must request a legibly dated U.S. Postal Service postmark or obtain a legibly dated receipt from a commercial carrier or the U.S. Postal Service as proof of timely mailing.

2. Applications which do not meet the criteria in 1.a. or 1.b. above are considered late applications and will be returned to the applicant.

Where To Obtain Additional Information

A complete program description, information on application procedures, an application package, and business management technical assistance may be obtained from Lisa G. Tamaroff, Grants Management Specialist, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control, 255 East Paces Ferry Road, NE., room 300, Mail Stop E-14, Atlanta, Georgia 30305, (404) 842-6796.

Please refer to Announcement Number 244 when requesting information and submitting an application.

Programmatic technical assistance is available from Bernadine B. Kuchinski, Ph.D., Educational Resource Development Branch, Division of Training and Manpower Development, National Institute for Occupational Safety and Health, CDC, 4676 Columbia Parkway, Cincinnati, Ohio 45226, (513) 533-8241 or FTS 684-8241.

Potential applicants may obtain a copy of Healthy People 2000 (Full Report; Stock No. 017-001-00474-0) or Healthy People 2000 (Summary Report; Stock No. 017-001-00473-1) through the Superintendent of Documents, Government Printing Office, Washington, DC 20402-9325 (Telephone 202-783-3238).

Dated: April 17, 1992.

J. Donald Millar,

Director, National Institute for Occupational Safety and Health, Centers for Disease Control.

[FR Doc. 92-9481 Filed 4-22-92; 8:45 am]

BILLING CODE 4160-19-M

Food and Drug Administration

[Docket No. 91G-0451]

Zumbro, Inc.; Filing of Petition for Affirmation of GRAS Status

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that Zumbro, Inc., has filed a petition (GRASP 2G0380), proposing to affirm that rice maltodextrin is generally recognized as safe (GRAS) as a direct human food ingredient.

DATES: Written comments by June 22, 1992.

ADDRESSES: Submit written comments to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 1-23, 12420 Parklawn Dr., Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Andrew D. Laumbach, Center for Food Safety and Applied Nutrition (HFF-334), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-426-5487.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (secs. 201(s), 409(b)(5) (21 U.S.C. 321(s), 348(b)(5))) and the regulations for affirmation of GRAS status in § 170.35 (21 CFR 170.35), notice is given that Zumbro, Inc., Rt. 1, Box 3, Hayfield, MN 55940, has filed a petition (GRASP 2G0380), proposing that rice maltodextrin be affirmed as GRAS for use as a direct human food ingredient.

The petition has been placed on display at the Dockets Management Branch (address above).

Any petition that meets the requirements outlined in §§ 170.30 and 170.35 is filed by the agency. There is no pre-filing review of the adequacy of data to support a GRAS conclusion. Thus, the filing of a petition for GRAS affirmation should not be interpreted as a preliminary indication of suitability for GRAS affirmation.

The potential environmental impact of this action is being reviewed. If the agency finds that an environmental

impact statement is not required and this petition results in a regulation, the notice of availability of the agency's finding of no significant impact and the evidence supporting that finding will be published with the regulation in the Federal Register in accordance with 21 CFR 25.40(c).

Interested persons may, on or before June 22, 1992, review the petition and/or file comments (two copies, identified with the docket number found in brackets in the heading of this document) with the Dockets Management Branch (address above). Comments should include any available information that would be helpful in determining whether the substance is, or is not, GRAS for the proposed use. A copy of the petition and received comments may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Dated: April 15, 1992.

Fred R. Shank,

Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 92-9495 Filed 4-22-92; 8:45 a.m.]

BILLING CODE 4160-01-F

Health Care Financing Administration

Privacy Act of 1974; Report of New System

AGENCY: Department of Health and Human Services (HHS), Health Care Financing Administration (HCFA).

ACTION: Notice of new system of records.

SUMMARY: In accordance with the requirements of the Privacy Act of 1974, we are proposing to establish a new system of records, "Evaluation of the Medicaid Expansion Demonstrations," No. 09-70-0056. We have provided background information about the proposed system in the "Supplementary Information" section below. Although the Privacy Act requires only that the "routine uses" portion of the systems be published for comment, HCFA invites comments on all portions of this notice. See "Dates" section for comment period.

DATES: HCFA filed a new system report with the Chairman of the Committee on Government Operations of the House of Representatives, the Chairman of the Committee on Governmental Affairs of the Senate, and the Acting Administrator, Office of Information and Regulatory Affairs, Offices of Management and Budget, on April 20, 1992. The new system will become effective 60 days after publication (June

22, 1992), unless HCFA receives comments which require alteration to the system.

ADDRESS: The public should address comments to Richard DeMeo, HCFA Privacy Act Officer, Office of Budget and Administration, HCFA, 2-H-4 East Low Rise Building, 6325 Security Boulevard, Baltimore, Maryland 21207-5187. Comments received will be available for inspection at this location.

FOR FURTHER INFORMATION CONTACT:

Toni Pickard, Division of Health Services and Special Studies, Office of Demonstrations and Evaluations, Office of Research and Demonstrations, HCFA, Room 2306 Oak Meadows Building, 6325 Security Boulevard, Baltimore, Maryland 21207-5187, Telephone (410) 966-6621.

SUPPLEMENTARY INFORMATION:

HCFA proposes to initiate a new system of records collecting data under the authority of section 6407 of the Omnibus Budget Reconciliation Act of 1989, Public Law No. 101-239. The purpose of this system of records is to provide data necessary to evaluate the three Medicaid Expansion Demonstrations to be conducted in the States of Florida, Maine, and Michigan. This evaluation will test alternative models for extending health insurance coverage to children under age 20 who lack insurance. The system will furnish information necessary to determine the impact of the different interventions on program cost and effectiveness, as well as a variety of individual-level outcomes, such as changes in access to care, health status, satisfaction with services, and utilization patterns. Each State will use a different strategy for providing the new coverage. Florida will test the effectiveness of marketing a school-based affordable insurance package under which services will be delivered through a managed care network. Maine will conduct a statewide program which features the use of subsidies for the purchase of comparable private, employer-based group coverage where such insurance is shown to be cost effective. Michigan will test the effectiveness of a public-private partnership between the State and Michigan Blue Cross Blue Shield which will feature the use of donated funds to subsidize a mainstream outpatient insurance package. The demonstration projects will operate for a period of 3 years, preceded by a development phase which will last for at least 6 months and followed by a 3-month closeout period. The evaluation,

is scheduled to run through December 1995. The system of records is expected to include data collected from the following sources: (1) Eligibility forms from School Lunch Program applications within each State, stratified by income; (2) program application forms supplemented with basic demographic information; (3) services use and cost records from the claims processing system, within the three States; and (4) survey data collected from the various samples of program participants and associated controls. Information will be collected on approximately 44,000 individuals. These data will be collected by the HCFA contractor, who will conduct an independent evaluation of the results of the project. In order to fulfill the objectives and complete the tasks of this contract with HCFA, the evaluation contractor must have individually identifiable records. Since we are proposing to establish this system of records in accordance with the requirements and principles of the Privacy Act, it will not have an unfavorable effect on the privacy or other personal rights of individuals.

The Privacy Act permits us to disclose information without the consent of the individual for "routine use"—that is, disclosure for purposes that are compatible with the purposes for which we collected the information. The proposed routine uses in the new system meet the compatibility criteria since the information is collected for the purpose of testing expansions to the State Medicaid programs, for which HCFA shares the administrative responsibilities with the States. The disclosures under the routine uses will not result in any unwarranted adverse effects on personal privacy.

Dated: April 13, 1992.

J. Michael Hudson,
Acting Administrator, Health Care Financing
Administration.

09-70-0056

SYSTEM NAME:

Evaluation of the Medicaid Expansion Demonstrations.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Contact the system manager for location of this contractor.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Participants in each of the three State programs (Florida, Maine, Michigan) who meet the age (between the upper limit of the age criteria in each State's

regular Medicaid program and age 19) and income eligibility guidelines (up to 185 percent of Federal Poverty Level), plus individuals selected as controls for each program who meet the same eligibility guidelines but who are not exposed to the program interventions.

CATEGORIES OF RECORDS IN THE SYSTEM:

The system will contain information concerning a patient's name, Health Insurance Claim Number, demographic characteristics (e.g., age, sex), perceived health status, medical diagnoses and conditions, service use and costs by type and place of service, family income level, presence of alternative insurance coverage, level of satisfaction with services received, and length of time in program.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Section 6407 of the Omnibus Budget Reconciliation Act of 1989, Pub. L. 102-239

PURPOSE(S):

To provide data necessary to evaluate the results of the three Medicaid Expansion Demonstrations, including impacts on program costs, utilization of health care services, access, and satisfaction with care.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure may be made to:

1. The evaluation contractor and any subcontractor, who will use this information to analyze the impacts of the alternative models for extending health insurance to children under age 20 through demonstrations expanding the Medicaid benefits to this previously uninsured population. These contractors and/or subcontractors shall be required to maintain Privacy Act safeguards with respect to such records.

2. A congressional office, from the record of an individual in response to an inquiry from the congressional office, made at the request of that individual.

3. The Department of Justice, to a court or other tribunal, or to another party before such tribunal, when:

- a. The Department of Health and Human Services (HHS), or any component thereof; or
- b. Any HHS employee in his or her official capacity; or
- c. Any HHS employee in his or her individual capacity where the Department of Justice (or HHS, where it is authorized to do so) has agreed to represent the employee; or
- d. The United States or any agency thereof (when HHS determines that the

litigation is likely to affect HHS or any of its components);

is a party to litigation or has an interest in such litigation, and HHS determines that the use of such records by the Department of Justice, the tribunal, or other party is relevant and necessary to the litigation and would help in the effective representation of the governmental party, provided, however, that in each case, HHS determines that each disclosure is compatible with the purpose for which the records were collected.

4. A contractor for the purpose of collating, analyzing, aggregating, or otherwise refining or processing records in this system, or for developing, modifying, and/or manipulating it with ADP software. Data would also be disclosed to contractors incidental to consultation, programming, operation, user assistance, or maintenance for ADP or telecommunications systems containing or supporting records in the system.

5. An individual or organization for a research, demonstration, evaluation, or epidemiologic project related to the prevention of disease or disability or the restoration or maintenance of health, if HCFA:

- a. Determines that the use of disclosure does not violate legal limitations under which the record was provided, collected, or obtained;
- b. Determines that the research purpose for which the disclosure is to be made:

- (1) Cannot be reasonably accomplished unless the record is provided in individually identifiable form,
- (2) Is of sufficient importance to warrant the effect and/or risk on the privacy of the individual that additional exposure of the record might bring, and
- (3) There is reasonable probability that the objective for the use would be accomplished;

c. Requires the recipient to:

- (1) Establish reasonable administrative, technical, and physical safeguards to prevent unauthorized use or disclosure of the record, and
- (2) Remove or destroy the information that allows the individual to be identified at the earliest time at which removal or destruction can be accomplished consistent with the purpose of the adequate justification of a research or health nature for retaining such information, and
- (3) Makes no further use or disclosure of the record except:

- (a) In emergency circumstances affecting the health or safety of any individual, or

(b) For use in another research project, under these same conditions, and with the written authorization of HCFA, or

(c) For disclosure to a properly identified person for the purpose of an audit related to the research project, if information that would enable research subjects to be identified is removed or destroyed at the earliest opportunity consistent with the purpose of the audit, or

(d) When required by law; and
d. Secures a written statement attesting to the recipient's understanding of and willingness to abide by these provisions.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper, and magnetic media.

RETRIEVABILITY:

Information will be retrieved by beneficiary's name and social security number.

SAFEGUARDS:

The evaluation contractor and/or their subcontractor(s) will maintain all records in secure storage areas accessible only to authorized employees and will notify all employees having access to records of criminal sanctions for unauthorized disclosure of information on individuals. For computerized records, the evaluation contractor will initiate automated data processing system security procedures required by HHS IRM Circular #10, Automated Information Systems Security Program (e.g., use of passwords) and the National Institute of Standards and Technology's Federal Information Processing Standards. Similar safeguards will be provided if any records are transferred to HCFA central office.

RETENTION AND DISPOSAL:

Hard copy data collection forms and magnetic tapes (or equivalent media) with identifiers will be retained in secure storage areas. Records will be retained for 3 years after the termination of the evaluation contract. The disposal techniques of degaussing will be used to strip magnetic tape (or equivalent media) of identifying names and numbers. Hard copy records will be destroyed at this time.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Office of Research and Demonstrations, HCFA, 2230 Oak Meadows Building, 6325 Security Boulevard, Baltimore, Maryland 21207-5187

NOTIFICATION PROCEDURE:

Inquiries and requests for system records should be addressed to the system manager at the address indicated above. The requestor must specify the name, address, and social security number.

RECORD ACCESS PROCEDURE:

Same as notification procedures. Requestors should reasonably specify the record contents being sought. These procedures are in accordance with Department Regulations 45 CFR 5b.5(a)(2).

CONTESTING RECORD PROCEDURE:

Contact the system manager named above and reasonably identify the record and specify the information to be contested. State the reason for contesting it (e.g., why it is inaccurate, irrelevant, incomplete, or not current). These procedures are in accordance with Department Regulations, 45 CFR 5b.7.

RECORD SOURCE CATEGORIES:

Source of information contained in this records system are expected to include data collected from: the claims processing files in each program; eligibility forms from School Lunch Program applications within each State; program application forms supplemented with basic demographic information; and survey data collected from the various samples of program participants and associated controls.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

[FR Doc. 92-9447 Filed 4-22-92; 8:45 am]

BILLING CODE 4120-03-M

National Institutes of Health

National Cancer Institute; Meeting—Board of Scientific Counselors, Division of Cancer Biology, Diagnosis, and Centers

Pursuant to Public Law 92-463, notice is hereby given of the meeting of the Board of Scientific Counselors, Division of Cancer Biology, Diagnosis, and Centers, National Cancer Institute, June 9, 1992. The meeting will be held in building 31C, Conference Room 6, National Institutes of Health, Bethesda, Maryland 20892.

The entire meeting will be open to the public from 3 p.m. to adjournment for concept review of proposed research projects. Attendance by the public will be limited to space available.

The Committee Management Office, National Cancer Institute, building 31,

room 10A06, National Institutes of Health, Bethesda, Maryland 20892 (301/496-5708) will provide summary minutes of the meeting and roster of committee members.

Dr. Ihor J. Masnyk, Deputy Director, Division of Cancer Biology, Diagnosis, and Centers, National Cancer Institute, building 31, room 3A03, National Institutes of Health, Bethesda, Maryland 20892 (301/496-3251) will provide substantive program information.

(Catalog of Federal Domestic Assistance Program Numbers: 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control)

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 92-9457 Filed 4-22-92; 8:45 am]

BILLING CODE 4140-01-M

National Institute of Allergy and Infectious Diseases; Meeting: AIDS Liaison Subcommittee of the AIDS Research Advisory Committee, NIAID

Pursuant to Public Law 92-463, notice is hereby given of the meeting of the AIDS Liaison Subcommittee of the AIDS Research Advisory Committee, National Institute of Allergy and Infectious Diseases, on May 19-20, 1992, in Building 31C, Conference Rooms 6 and 10 respectively, at the National Institutes of Health, Bethesda, Maryland 20892.

The entire meeting will be open to the public from 8 a.m. until recess on May 19 in Conference Room 6, and from 8:30 a.m. until adjournment on May 20 in Conference Room 10. The subcommittee will discuss the mission and directions of the Division of AIDS (DAIDS) providing input and broad programmatic advice on the DAIDS extramural program with respect to basic and clinical research. Attendance by the public will be limited to space available.

Ms. Patricia Randall, Office of Reporting and Public Response, National Institute of Allergy and Infectious Diseases, Building 31, room 7A32, National Institutes of Health, Bethesda, Maryland 20892, telephone 301-496-5717 will provide a summary of the meeting and a roster of the committee members upon request.

Ms. Jean Noe, Scientific Review Administrator, AIDS Research Advisory Committee, DAIDS, NIAID, NIH, Solar Building, room 2A22, 6003 Executive Boulevard, Rockville, Maryland 20892,

telephone 301-496-0545 will provide substantive program information.

(Catalog of Federal Domestic Assistance Program Nos. 93.855, Immunology, Allergic and Immunologic Diseases Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health)

Dated: April 16, 1992.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 92-9458 Filed 4-22-92; 8:45 am]

BILLING CODE 4140-1-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Housing-Federal Housing Commissioner

[Docket No. D-92-987; FR-3287-D-01]

Redelegation of Certain Authorities in the Single Family Property Disposition Homeless Initiative Program to the Assistant Secretary for Community Planning and Development

AGENCY: Office of Housing-Federal Housing Commissioner, HUD.

ACTION: Redelegation of authority.

SUMMARY: The HUD Assistant Secretary for Housing-Federal Housing Commissioner is transferring responsibility to waive certain sections of the Single Family Property Disposition Homeless Initiative Regulation to the Assistant Secretary for Community Planning and Development. This redelegation reflects a realignment of program responsibility.

EFFECTIVE DATE: April 17, 1992.

FOR FURTHER INFORMATION CONTACT: Marion F. Connell, Property Disposition Division, Office of Insured Single Family Housing, Department of Housing and Urban Development, 451 7th Street, SW., room 9170, Washington, DC 20410, (202) 708-1832. (This is not a toll free number.)

SUPPLEMENTARY INFORMATION: As provided by subpart F of 24 CFR 291.500, this notice redelegates to the Assistant Secretary for Community Planning and Development the power and authority of the Assistant Secretary for Housing-Federal Housing Commissioner to waive certain specific provisions of the Final Rule for the Single Family Property Disposition Homeless Initiative ("Final Rule") published in the *Federal Register* at 56 FR 48952, September 16, 1991. The Assistant Secretary for Community Planning and Development may not redelegate this authority. (See Statement of Policy on Waiver of Regulations and Directives issued by HUD published in

the *Federal Register* on April 22, 1991 at 56 FR 16337.)

The final rule at 56 FR 48952, September 16, 1991, sought to link HUD's single family property disposition program to the Department's priority to end homelessness by providing for the disposition of HUD acquired single family properties for use by the homeless. The rule conferred certain authorities on the Assistant Secretary for Housing respecting the lease and sale of properties under the program. However, because the Assistant Secretary for Community Planning and Development has ongoing functions respecting homeless assistance, it has been determined that certain of the authorities under the final rule are best redelegated to the Assistant Secretary for Community Planning and Development. This notice redelegates to the Assistant Secretary for Community Planning and Development the authority of the Assistant Secretary for Housing-Federal Housing Commissioner to waive:

(a) Section 291.410 (a), (b), and (c) of the rule, which provide for preapproval of applicants for notification of eligible properties, acceptance of agreements in writing from applicants to abide by the provisions of this part, and receipt of preapproval data from applicants. Redelegation of waiver authority concerning these provisions is appropriate because Community Planning and Development staff are already responsible for applicant preapproval and, therefore, the Assistant Secretary for Community Planning and Development is positioned more advantageously to determine when a waiver under this part is meritorious. For example, a waiver might expedite assistance to a new group in obtaining a property which it might otherwise be prohibited from obtaining because of an incomplete collection of eligibility data. The waiver authority will not be used to remove requirements for approval, but only for purposes of easing timing restrictions on notification.

(b) Section 291.415(a), which requires that each lessee must execute a sublease with occupants in a form prescribed by the Secretary limiting an occupant's tenancy to no longer than two years and § 291.415(c)(2) (i), (ii) and (iii) and (c)(3) concerning lessee rent charges and the limits on rent charges which a lessee may charge occupants. These relate to program guidelines established by the Assistant Secretary for Community Planning and Development and, therefore, it is more appropriate for that Office to exercise any waiver of these provisions.

(c) Section 291.420(a)(2), which provides that applicants may not sublease property during the application review period under the Supportive Housing Demonstration. Program rules currently do not permit homeless providers to sublease properties while awaiting grant award decisions. In instances where a homeless provider is leasing properties and is, therefore, responsible for maintenance, taxes, utilities, and security, waiver of this prohibition will permit an agency to recoup some of these expenses while still controlling the desired site pending review of its application. It is understood that the redelegation of authority to waive this requirement and grant permission to sublet such a property, does not also extend to waiving other provisions of this part; i.e., the applicant remains responsible for maintenance, taxes, utilities, and security during the lease term.

(d) Section 291.440, which specifies recordkeeping requirements for lessees of properties for the homeless. This provision of the rule is more properly interpreted by the Assistant Secretary responsible for monitoring program delivery.

Section A. Authority Redelegated

The Assistant Secretary of Housing-Federal Housing Commissioner hereby redelegates to the Assistant Secretary for Community Planning and Development all waiver authority under the following provisions of the Final Rule for the Single Family Property Disposition Homeless Initiative, 24 CFR 291:

1. Sec. 291.410 (a), (b), and (c)—Applicant preapproval;
2. Sec. 291.415(a), (c)(2) (i), (ii) and (iii) and (c)(3)—Lease with option to purchase properties for use by the homeless;
3. Sec. 291.420(a)(2)—Supportive Housing Demonstration Program lease-option to purchase properties, prohibition against subleasing during application review period; and
4. Sec. 291.440—Recordkeeping requirements.

Section B. No Redelegation of Authority

None of the authority delegated under this redelegation of authority may be redelegated further.

Authority: Section 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

Dated: April 17, 1992.

Arthur J. Hill,
Assistant Secretary for Housing, Federal
Housing Commissioner.

[FR Doc. 92-9521 Filed 4-22-92; 8:45 am]

BILLING CODE 4210-27-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CA-010-01-4760-08]

Availability of Environmental Impact Statement; Hollister Resource Area

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of availability of planning criteria.

SUMMARY: Notice is hereby given that the Planning Criteria for an Amendment to the Hollister Resource Management Plan and Environmental Impact Statement to address existing uses in the Clear Creek Management Area, in the Hollister Resource Area is available for public review and comment.

DATES: Comments are being accepted from the public until May 22, 1992.

FOR FURTHER INFORMATION CONTACT: Tim Moore, Team Leader, Hollister Resource Area, 20 Hamilton Court, Hollister, CA 95023.

SUPPLEMENTAL INFORMATION: The Hollister Resource Area, Bureau of Land Management, U.S. Department of the Interior, is amending the current land use plan (Hollister Resource Management Plan) and preparing an Environmental Impact Statement to address existing use in the Clear Creek Management Area. These lands are located in the central California counties of San Benito and Fresno.

The proposed planning criteria describe the applicable laws and regulations that will guide development of the resource management plan amendment. They are keyed to specific issues that will be considered in the plan amendment. The criteria also includes a brief discussion of proposed alternative actions to be analyzed in the amendment and EIS.

Dated: April 13, 1992.

Robert E. Beehler,
Area Manager.

[FR Doc. 92-9490 Filed 4-22-92; 8:45 am]

BILLING CODE 4310-40-M

[CA-010-02-4333-08]

Intent To Prepare Sierra Management Framework Plan Amendment and Amendments to the Red Hills Management Plan

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of intent.

SUMMARY: Pursuant to 40 CFR 1501.7 and 43 CFR 1610.2(c), notice is hereby given that the Folsom Resource Area, as part of the Bakersfield District, California, will prepare an amendment to the Sierra Management Framework Plan and amendments to the Red Hills Management Plan and associated Environmental Analysis for the Red Hills Management Area.

SUPPLEMENTARY INFORMATION: The Folsom Resource Area, located in Central California, is divided into 13 Management Areas which total approximately 230,000 acres. Of these, the Red Hills Management Area contains 7,100 acres in western Tuolumne County. The existing land-use plan for the Sierra Planning Area was completed in 1983 and amended in 1988. The Red Hills Management Plan was completed in 1985.

The Red Hills are environmentally sensitive. The endangered bald eagle is a winter visitor, and five species of plants are candidates for listing under the Endangered Species Act. In addition, a cyprinid fish with very limited distributed only in the Red Hills, the Red Hills roach, is suspected of harboring unique characteristics which may result in it being given taxonomic recognition. A portion of the Red Hills Management Area has been designated as an Area of Critical Environmental Concern. In February, 1991, an Emergency Closure Order prohibited the recreational activities of casual target shooting and off-road vehicle use in the Red Hills because of adverse environmental impacts and threats to public safety.

It is the intent of the Folsom Resource Area to revise the Sierra Management Framework Plan as it pertains to the Red Hills Management Area and the Red Hills Management Plan to achieve the following:

1. Permanently prohibit casual target shooting in the Red Hills Management Area.
2. Permanently prohibit the use of motorized vehicles in an off-road capacity in the Red Hills Management Area.
3. Designate the entire Red Hills Management Area as an Area of Critical Environmental Concern.

4. Establish environmental education and interpretation as major public uses of the Red Hills Management Area.

There has been extensive public involvement on these topics. A public meeting was held in Sonoma, California in March, 1991 to provide public input, and an *ad hoc* citizens' steering committee studied the issues in depth and gave advice to the BLM.

An Environmental Analysis is being prepared on the proposed amendments. This document will focus on recreation activities such as casual target shooting and off-road vehicles, sensitive plants, wildlife, soils, mineral exploration and development. An interdisciplinary team will be used to develop alternatives and analyze the associated impacts. This team of specialists will represent the following disciplines: Botany, wildlife biology, geology, range science, air and water quality, soils and outdoor recreation. Alternatives to the proposed action will be presented in the Environmental Assessment.

FOR FURTHER INFORMATION CONTACT: D.K. Swickard, Area Manager, Folsom Resource Area, 63 Natoma Street, Folsom, CA 95630. All documents relevant to the BLM's planning effort in the Red Hills as well as planning criteria used for the Sierra Management Framework Plan are available for public review at the above address.

Dated: April 7, 1992.

David N. Harris,
Authorized Officer.

[FR Doc. 92-9498 Filed 4-22-92; 8:45 am]

BILLING CODE 4333-08-M

[AZ-010-92-4322-02; 1784-010]

Arizona Strip District Grazing Advisory Board Meeting

AGENCY: Bureau of Land Management, Arizona Strip District, Interior.

ACTION: Notice of meeting.

SUMMARY: The Arizona Strip District Grazing Advisory Board will meet Thursday, May 21, 1992. The meeting consists of a field trip to the Pakoon area. The tour will leave the Arizona Strip District Office located at 390 North 3050 East, St. George, Utah at 8 a.m. The primary topic is work that the Bureau of Land Management is doing on ecological site, desired plant communities and livestock grazing management in desert tortoise habitat.

FOR FURTHER INFORMATION CONTACT: G. William Lamb, District Manager, Arizona Strip District, 390 North 3050 East, St. George, Utah 84770. (Phone 801-673-3545)

SUPPLEMENTARY INFORMATION: The meeting is open to the public. Any person may attend but will need to provide their own transportation.

Dated: April 14, 1992.

G. William Lamb,

Arizona Strip District Manager.

[FR Doc. 92-9499 Filed 4-22-92; 8:45 am]

BILLING CODE 4310-32-M

[MT-070-4333-10]

Supplementary Rules at Holter Lake Campground, Montana

AGENCY: Bureau of Land Management, Butte District Office, Interior.

ACTION: Notice.

SUMMARY: Effective May 1, 1992, day-use seasonal passes and group day-use picnic reservations will be instituted at Holter Lake Campground. The cost of the day-use seasonal passes will be \$25 per vehicle. The pass will allow access to a specific vehicle identified by its license number.

Group day-use picnic reservation will cost \$25 per group plus \$2 per vehicle. Maximum group size for reserving the picnic site will be 60 people and no reservations will be accepted during the holiday weekends of Memorial Day, Fourth of July and Labor Day.

The current federal occupancy and use regulation prohibiting individuals from leaving personal property unattended for more than 72 hours in campgrounds is amended to 24 hours at the Holter Lake Campground.

FOR FURTHER INFORMATION CONTACT: Brad Rixford, Headwaters Resource Area, 106 N. Parkmont, P.O. Box 3388, Butte, MT 59702.

SUPPLEMENTARY INFORMATION: The purpose of this action is to reduce traffic congestion at the pay station, improve visitor conveniences, achieve better compliance on day-use fees and, in the case of the group picnic fee, decrease the number of vehicles at the site.

These sites are managed for camping on a first-come-first-served basis and no advance reservations are accepted. Given the high levels of camping use, the purpose of this action is to ensure that all visitors have an equitable opportunity to obtain a camp site. Authority for this action is 36 CFR 71.9 and 43 CFR 8365.2-3.

Dated: April 14, 1992.

Gary L. Gerth,

Acting District Manager.

[FR Doc. 92-9500 Filed 4-22-92; 8:45 am]

BILLING CODE 4310-DN-M

[AK-050-4230-11; AA-061337]

Recreation and Public Purposes (R&PP) Act Classification in Slana, AK

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of reality action; Recreation and Public Purposes (R&PP) Act Classification.

SUMMARY: The following public lands in Slana, Alaska have been examined and found suitable for classification for lease and/or conveyance to the Homestead Christian Church under the provisions of the Recreation and Public Purposes Act, as amended (43 U.S.C. 869 et seq.)

Copper River Meridian, Alaska

T. 11 N., R. 8 E.,

Sec. 34, SW1/4NE1/4SE1/4SW1/4SE1/4, NW1/4SE1/4SE1/4SW1/4SE1/4.

Containing 1.25 Acres, more or less.

DATES: Interested persons may submit comments regarding proposed lease/conveyance or classification to the Glennallen District Manager until June 8, 1992. Any adverse comments will be reviewed by the State Director. In the absence of any adverse comments, the classification will become effective June 22, 1992.

ADDRESSES: Comments must be submitted to the Glennallen District Manager, P.O. Box 147, Glennallen, AK 99588-0147.

FOR FURTHER INFORMATION CONTACT: Michael McGinty, (907) 822-3217.

SUPPLEMENTARY INFORMATION: The purpose of the classification and lease or conveyance of these lands is for the Homestead Christian Church to construct, operate and maintain a non-denominational church. The church is intended to be a place of worship for the community of Slana Alaska. The church will also provide services, Sunday school, and support, weddings, baptism's, potluck, and provide a public meeting place for the community.

When issued, the lease and/or patent will be subject to the following terms:

1. Provisions of the Recreation and Public Purposes Act and to all applicable regulations of the Secretary of the Interior.
2. Rights-of-Way thereon for ditches and canals constructed by the authority of the United States Act of August 30, 1890, 26 Stat. 391; 43 U.S.C. 945.
3. All minerals shall be reserved to the United States. Such resources will not be subject to exploration, prospecting, mining and removal.

The lands involved have been and remain closed to location and entry under the United States mining laws.

Upon publication of this notice in the Federal Register, the lands will be segregated from all other forms of public land laws including the mineral leasing laws.

The proposed lease and/or conveyance is consistent with Southcentral Management Framework Plan. The land is not needed for any Federal purposes.

Dated: April 9, 1992.

Gene R. Keith,

District Manager.

[FR Doc. 92-9448 Filed 4-22-92; 8:45 am]

BILLING CODE 4310-JA-M

[ID-010-02-4212-13; IDI-28084]

Realty Action; Elmore County, ID

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of reality action; exchange of public and private lands in Elmore County, Idaho.

SUMMARY: The following described public lands have been determined to be suitable for disposal by exchange under Section 206 of the Federal Land Policy and Management Act of October 21, 1976 (43 U.S.C. 1716):

Boise Meridian, Idaho

T. 4 S., R. 6 E.,

Sec. 24, NW1/4SW1/4;

Sec. 26, E1/2SE1/4;

Sec. 35, W1/2NE1/4.

Containing 200 acres, more or less.

In exchange for the above described public land, the BLM proposes to acquire from Squaw Creek Farms, an Idaho General Partnership, two irregularly shaped parcels totalling 288.41 acres, more or less, located in sections 13, 23, and 24, T. 5 S., R. 6 E., Boise Meridian, Idaho. A full metes and bounds description of the subject parcels is available for review at the BLM Boise District Office, 3948 Development Avenue, Boise, Idaho 83705.

The purpose of this exchange is to dispose of scattered and isolated parcels of public lands that are difficult and uneconomic to manage because they have no legal access and possess very little resource value, in exchange for private lands located adjacent to the Snake River Birds of Prey Area that are legally accessible and that contain higher quality wildlife habitat with potential for riparian development. The public interest will be well served by the completion of this exchange.

The exchange will be consummated on an equal value basis. Full

equalization of values will be accomplished prior to closing through cash payment in an amount not to exceed 25 percent of the value of the lands to be transferred out of Federal ownership.

DATES: On or before June 8, 1992, interested parties may submit comments to the BLM Boise District Manager at the above address. Objections to this proposal will be reviewed by the State Director, who may sustain, modify, or vacate this realty action. In the absence of any adverse comments, this realty action will become the final determination of the Department of Interior.

FOR FURTHER INFORMATION CONTACT: John Sullivan, Bruneau Resource Area Realty Specialist at (208) 384-3338. The Environmental Assessment is available for review at the above address.

SUPPLEMENTARY INFORMATION: Publication of this notice in the *Federal Register* segregates the public lands from operation of the public land laws and mining laws, but not the mineral leasing laws. The segregative effect will end upon issuance of patent or two (2) years from the date of publication, whichever occurs first.

Lands to be transferred from the United States will be subject to the reservation to the United States of a right-of-way for ditches or canals constructed by the authority of the United States. Act of August 30, 1890 (43 U.S.C. 945).

Dated: April 8, 1992.

Barry C. Cushing,

Acting District Manager.

[FR Doc. 92-9491 Filed 4-22-92; 8:45 am]

BILLING CODE 4310-GG-M

[MT-070-02-4212-13; M80295]

Realty Action: Exchange of Public and Private Lands in Beaverhead County, MT

AGENCY: Bureau of Land Management, Butte District Office.

ACTION: Notice.

SUMMARY: The following described lands have been determined to be suitable for disposal by exchange under Section 206 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1716.

Principal Meridian, Montana

T 14 S, R 6 W

Sec. 7: Lot 3,4, E $\frac{1}{2}$ SW $\frac{1}{4}$

17: NE $\frac{1}{4}$ NW $\frac{1}{4}$;

18: Lot 1,2,3,4, SE $\frac{1}{4}$ SW $\frac{1}{4}$, W $\frac{1}{2}$ SE $\frac{1}{4}$;

19: Lot 1,2,3,4, E $\frac{1}{2}$ W $\frac{1}{2}$, SE $\frac{1}{4}$ SE $\frac{1}{4}$, SW $\frac{1}{4}$ SE $\frac{1}{4}$;

20: S $\frac{1}{2}$ SW $\frac{1}{4}$, SW $\frac{1}{4}$ SE $\frac{1}{4}$;

21: N $\frac{1}{2}$ N $\frac{1}{2}$, SE $\frac{1}{4}$ NE $\frac{1}{4}$;

27: N $\frac{1}{2}$, SW $\frac{1}{4}$;

28: E $\frac{1}{2}$ E $\frac{1}{2}$, NW $\frac{1}{4}$ NE $\frac{1}{4}$, NW $\frac{1}{4}$;

29: N $\frac{1}{2}$.

T 14 S, R 7 W

Sec. 1: N $\frac{1}{2}$ SW $\frac{1}{4}$;

12: SE $\frac{1}{4}$.

Containing 2609.84 acres of public lands.

In exchange for these lands, the United States will acquire the following described lands from Evan Huntsman:

Principal Meridian Montana

T 9 S, 4 11 W,

Sec. 3: S $\frac{1}{2}$;

10: N $\frac{1}{2}$;

14: SW $\frac{1}{4}$ NE $\frac{1}{4}$, NW $\frac{1}{4}$, N $\frac{1}{4}$ SW $\frac{1}{4}$, SE $\frac{1}{4}$

SW $\frac{1}{4}$, SE $\frac{1}{4}$;

15: SE $\frac{1}{4}$, NE $\frac{1}{4}$;

23: NW $\frac{1}{4}$ NE $\frac{1}{4}$, E $\frac{1}{2}$ NW $\frac{1}{4}$.

T 14 S, R 5 W,

Sec. 18: SE $\frac{1}{4}$ SW $\frac{1}{4}$, SW $\frac{1}{4}$ SE $\frac{1}{4}$;

19: W $\frac{1}{2}$ E $\frac{1}{2}$, E $\frac{1}{2}$ NW $\frac{1}{4}$, NE $\frac{1}{4}$ SW $\frac{1}{4}$.

T 14 S, R 6 W,

Sec. 24: NW $\frac{1}{4}$ SE $\frac{1}{4}$, S $\frac{1}{2}$ SE $\frac{1}{4}$;

25: NE $\frac{1}{4}$.

Containing/aggregating 1920 acres of private lands.

DATES: Interested parties may submit comments by June 8, 1992 to the Bureau of Land Management, at the address shown below. Any adverse comments will be evaluated by the BLM Montana State Director, who may sustain, vacate, or modify this realty action. In the absence of any objections, this realty action will become the final determination of the Department of the Interior.

FOR FURTHER INFORMATION CONTACT: Information related to the Exchange, including the Environmental Assessment, is available for review at the Butte District Office, P.O. Box 3388, Butte MT 59702.

SUPPLEMENTARY INFORMATION: The publication of this notice segregates the public lands described above from settlement, sale, location and entry under the public land laws, including the mining laws, but not from exchange pursuant to section 206 of the Federal Land Policy and Management Act of 1976 for a period of two years from the date of first publication. The exchange will be made subject to:

1. A reservation to the United States of a right-of-way for ditches or canals in accordance with 43 U.S.C. 945.
2. The reservation to the United States of all minerals in the Federal lands being transferred.
3. A right-of-way reservation to the United States on a road crossing those Federal lands to be conveyed to Evan Huntsman and a permanent, exclusive easement from Evan Huntsman to the United States on that same road which crosses the SE $\frac{1}{4}$ of sec. 21, SW $\frac{1}{4}$ SE $\frac{1}{4}$ of

sec. 27, NE $\frac{1}{4}$ of sec. 34, and the NW $\frac{1}{4}$ of sec. 35, all in T 14 S R 6 W.

4. Value equalization by cash payments or assuming costs of the exchange.

5. The exchange must meet the requirements of 43 CFR 4110.4-2(b).

This exchange is consistent with Bureau of Land Management policies and planning and has been discussed with State and local officials. The estimated intended time of the exchange is September, 1992. The public interest will be served by completion of this exchange because it will enable the Bureau of Land Management to acquire lands with high public values, and will increase management efficiency of public lands in the area.

Dated: April 14, 1992.

David C. Pickett,

Acting District Manager.

[FR Doc. 92-9492 Filed 4-22-92; 8:45 am]

BILLING CODE 4310-DN-M

Fish and Wildlife Service

Receipt of Applications for Permit

The following applicants have applied for a permit to conduct certain activities with endangered species. This notice is provided pursuant to section 10(c) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531, *et seq.*):

PRT-766828.

Applicant: Pennsylvania Game Commission, Harrisburg, PA.

The applicant requests a permit to take Peregrine falcon (*Falco peregrinus*) eggs from nests located at bridges in Pennsylvania for captive incubation and eventual release of the hatchlings into fostering nests.

PRT-766338.

Applicant: Billy Lee Gillespie, Bell Canyon, CA.

The applicant requests a permit to import the sport-hunted trophy of one male bontebok (*Damalisca dorcas dorcas*) to be culled from the captive herd maintained by F.W.M. Bowker, Grahamstown, South Africa, for the purpose of enhancement of survival of the species.

PRT-722075.

Applicant: Hawthorn Corporation, Grayslake, IL.

The applicant requests a permit to export three captive-born male tigers (*Panthera tigris*) for purposes of exhibition. Applicant is requesting amendment of the existing permit that authorizes export and re-import for conservation education.

PRT-766565.

Applicant: Omaha's Henry Doorly Zoo,
Omaha, NE.

The applicant requests a permit to export five female and five male captive-born black-footed ferrets (*Mustela nigripes*) to the Metropolitan Toronto Zoo, Ontario, Canada for enhancement of propagation and survival of the species.

PRT-766855.

Applicant: New York Zoological Society,
Bronx, NY.

The applicant requests a permit to import blood samples collected from wild felids (*Felis pardalis*, *Panthera onca*, and *Felis wiedii*) which have been confiscated by the government of Guatemala and are being rehabilitated for reintroduction into the wild. Blood samples will be tested for diseases to ensure that the felids are free of diseases before reintroduction.

Written data or comments should be submitted to the Director, U.S. Fish and Wildlife Service, Office of Management Authority, 4401 North Fairfax Drive, room 432, Arlington, Virginia 22203 and must be received by the Director within 30 days of the date of this publication.

Documents and other information submitted with these applications are available for review by any party who submits a written request for a copy of such documents to, or by appointment during normal business hours (7:45-4:15) in the following office within 30 days of the date of publication of this notice: U.S. Fish and Wildlife Service, Office of Management Authority, 4401 North Fairfax Drive, room 432, Arlington, Virginia 22203. Phone: (703/358-2104); FAX (703/358-2281).

Dated: April 17, 1992.

R.K. Robinson,

Acting Chief, Branch of Permits Office of
Management Authority.

[FR Doc. 92-9450 Filed 4-22-92; 8:45 am]

BILLING CODE 4310-55-M

Availability of Draft Maps of Oregon Areas Under Consideration for Inclusion in the Coastal Barrier Resources System

AGENCY: Fish and Wildlife Service,
Interior.

ACTION: Notice.

SUMMARY: Under the provisions of section 6 of the Coastal Barrier Improvement Act of 1990 (16 U.S.C. 3503), the Secretary of the Interior is required to provide to Congress maps identifying the boundaries of those undeveloped coastal barriers of the United States bordering the Pacific

Ocean south of 49 degrees north latitude which the Secretary and the appropriate Governor consider to be appropriate for inclusion in the system.

Recommendations made by the Secretary will be advisory only; any changes to the System will require an act of Congress. This notice is to announce the availability of draft Oregon maps with supporting delineation criteria and a report to Congress for public review and comments.

DATES: Comments should be received no later than July 31, 1992.

ADDRESSES: H. Dale Hall, Assistant Regional Director—Fish and Wildlife Enhancement, U.S. Fish and Wildlife Service, 911 NE. 11th Avenue, Portland, Oregon 97232-4181.

FOR FURTHER INFORMATION CONTACT: Dennis D. Peters, Fish and Wildlife Enhancement, U.S. Fish and Wildlife Service, 911 NE. 11th Avenue, Portland, Oregon 97232-4181, (503) 231-6154.

SUPPLEMENTARY INFORMATION: On October 18, 1982, President Reagan signed the Coastal Barrier Resources Act (CBRA) into law (Pub. L. 97-348). Section 4 of CBRA establishes the Coastal Barrier Resources System as referred to and adopted by Congress, and sections 5 and 6 prohibit all new Federal expenditures and financial assistance within the units of that System unless specifically excepted by the Act. These provisions of the Act became effective immediately. The statutory ban on the sale of new Federal flood insurance for new construction or substantial improvements within the System went into effect on October 1, 1983.

On November 16, 1990, President Bush signed the Coastal Barrier Improvement Act of 1990 (CBIA). Section 6 of the CBIA directs the Secretary of the Interior to prepare a study which examines the need for protecting undeveloped coastal barriers along the Pacific coast of the United States and to prepare maps identifying undeveloped coastal barriers bordering the Pacific Ocean south of 49 degrees north latitude which the Secretary and the appropriate Governor consider to be appropriate for inclusion in the System. In addition, Congress has directed the Secretary to prepare a report which examines the need for protecting undeveloped coastal barriers along the Pacific coast.

An existing 1988 report, *Report to Congress: Coastal Barrier Resources System, Coastal Barriers of the Pacific Coast: Summary Report*, by Dr. Joel W. Hedgpeth, will be reviewed and revised as necessary.

The criteria used to map the undeveloped coastal barriers along the Pacific coast are described in appendix A. Draft maps, as well as the report, will be provided upon request (See Address provided above). The original maps may be inspected at, and hand delivered comments may be taken to, Regional Office, U.S. Fish and Wildlife Service, 911 NE. 11th Avenue, 4th Floor East, Portland, Oregon. Copies of the original maps may be inspected during normal business hours, at the Oregon Department of Land Conservation and Development, 1175 Court Street NE., Salem, Oregon 97310, (503) 373-0092, and the Portland Field Office, U.S. Fish and Wildlife Service, 2600 SE. 98th Avenue, suite 100, Portland, Oregon 97266, (503) 231-6179.

Appendix A—Definition of Coastal Barriers for Purposes of the Study

This section presents a statement of definitions used to identify undeveloped coastal barriers for purposes of the Report to Congress required by section 6 of the CBIA. The study's definition is based on guidance provided by section 3(l) of CBRA.

A. General Definition

Based on the definition of a coastal barrier contained in section 3(l) of the CBRA, a coastal barrier is a depositional geologic feature (such as a bay barrier, tombolo, barrier spit, or barrier island) that:

- Is subject to wave, tidal, and wind energies, and
- Protects landward aquatic habitats including adjacent wetlands, marshes, estuaries, inlets, and nearshore waters.

B. Types of Coastal Barriers

Coastal barriers may be described generally, as in the CBRA definition, with respect to their relationship to the mainland as bay barriers, tombolos, barrier spits, and barrier islands. The "mainland" includes the continental landmass as well as large islands. The accepted scientific classification is:

1. Bay Barriers—coastal barriers that connect two headlands, and enclose a pond, marsh, or other aquatic habitat.
2. Tombolos—sand or gravel beaches that connect one or more offshore islands to each other or to the mainland.
3. Barrier Spits—coastal barriers that extend into open water and are attached to the mainland at only one end. They can develop into bay barrier if they grow completely across a bay or other aquatic habitat. On the other hand, bay barriers can become spits if an inlet is created.

4. Barrier Islands—coastal barriers completely detached from the mainland. Barrier spits may become barrier islands if their connection to the mainland is severed by creation of a permanent inlet. The barrier island represents a broadened barrier beach, commonly sufficiently above high tide to have dunes, vegetated zones, and wetland areas.

C. Composition of Coastal Barriers

Generally, coastal barriers consist entirely of unconsolidated sediment, composed of sand or gravel, but sometimes includes silt, cobbles, or large rocks.

D. Factors That Shape Coastal Barriers

Wind, waves, and tides are the immediate forces that maintain and modify coastal barriers. The action of wind, wave (directly and by creating littoral, onshore-offshore or other currents), and tidal energy on unconsolidated sedimentary materials generally results in continuous linear or curvilinear features—a beach ridge or berm located along the unprotected side of the coastal barrier.

Where a suitable sediment source and sufficient wind, wave, and tidal energy exist, secondary coastal barriers occasionally develop on the mainland side of large bays or lagoons behind coastal barrier systems. These secondary coastal barriers are included in the inventory.

E. Associated Aquatic Habitat

Associated aquatic habitat includes adjacent wetlands, marshes, estuaries, inlets, and nearshore waters; but only if such feature and associated habitats contain few manmade structures and these structures, and man's activities on such feature and within such habitats, do not significantly impede geomorphic and ecological processes.

Definition of "Undeveloped"

A coastal barrier is considered undeveloped if it contains less than one structure per 5 acres that is "roofed and walled" and covers at least 200 square feet. Once a coastal barrier has been identified, the development status of the unit is determined utilizing such terms included in CBRA as follows:

A. Few Man-Made Structures

As noted, a unit is considered undeveloped if it contains fewer than one structure per 5 acres of fastland. A man-made structure is defined as a walled and roofed building constructed in conformance with Federal, State, or local legal requirements, with a

projected ground area exceeding 200 square feet.

B. The Structures and Man's Activities Do Not Significantly Impede Geomorphic and Ecological Processes

If a unit contains fewer than roughly one structure per 5 acres of fastland, it is considered undeveloped except when geomorphic ecological processes are altered to the extent that the long-term perpetuation of the coastal barrier is threatened by one or more of the following:

1. Extensive shoreline manipulation or stabilization;
2. Pervasive canal construction and maintenance;
3. Major dredging projects and resulting sedimentary deposits;
4. Intensive capitalization development projects which effectively establish a commitment to stabilize an area, even though there are few actual structures.

C. Any Portion Thereof

The Act does not require an entire coastal barrier to be included, and specifically allows for inclusion of undeveloped portions of coastal barriers. An undeveloped portion of a coastal barrier is included if there exists a minimum of approximately one-quarter mile of shoreline on the unprotected (seaward) side of the coastal barrier. Each unit must include an undeveloped area extending through the fastland from the beach to the associated landward aquatic habitat, and must independently satisfy the definitional criteria in section 3(1)(A) of the Act.

Delineation of Coastal Barrier Study Areas

Boundary delineation of the coastal barrier units is made in the following manner:

A. Delineation of the Landward Boundary

On the landward side, the boundary is a line that encompasses the fastland core of the coastal barrier itself as well as associated aquatic habitat consisting of wetlands (including tidal flats), shoals, islands, channels, and open water landward of the fastland portion of the coastal barrier.

In general, the landward boundary of coastal barriers, as defined to include associated aquatic habitats, follows some natural or cultural feature within or landward of the aquatic system. Such features should be recognizable on available maps or aerial photographs as well as on the ground.

Two basic types of aquatic environments, or combinations thereof, occur landward of coastal barriers. Each requires a somewhat different application of the general "landward boundary delineation" rule. These aquatic environments and the specific applications of the "landward boundary delineation" rule are as follows:

1. General case. The landward boundary is a continuous line that follows the interface between the aquatic habitat and the mainland, as defined on topographic maps and/or aerial photographs by a change in vegetation. The boundary is drawn not more than 5 miles landward of the mean high water line on the unprotected side of the coastal barrier.

2. Special conditions. a. Landward aquatic habitat.

- Open water body greater than 1 mile wide landward of coastal barrier. The boundary is drawn through the open water approximately 1 mile landward of the farthest landward extent of wetlands on the protected side of the coastal barrier. If a discernible natural channel, man-made channel, or political boundary exists in the open water approximately 1 mile landward of the coastal barrier, such a feature is used to delineate the landward boundary. For natural and man-made channels, the boundary is drawn along the side nearest the coastal barrier.

- Continuous wetlands that extend more than 5 miles landward of the coastal barrier. The boundary is generally drawn through the wetlands along an identifiable natural channel, artificial channel, or political boundary nearest to the 5-mile limit in the manner described in the general case (1). If such features are lacking, the boundary is drawn through the wetland generally parallel to and 5 miles landward of the mean high water line on the unprotected side of the coastal barrier.

- Watercourses the flow into the aquatic habitat from the mainland. The boundary is drawn at the first natural or artificial constriction within the drainage landward of the coastal barrier.

- Coastal barriers within large embayments and secondary coastal barriers within bays and lagoons. Because of limited energy affecting these coastal barriers, the boundary is drawn as described in the general case (1), but not more than 1 mile landward of the mean high water line on the unprotected side of the coastal barrier.

b. Other coastline.

- Steep coastal topography. In areas of tectonic uplift or glacial rebound, the wetland-mainland boundary is normally

drawn not to exceed an elevation of 20 feet above the mean high water level of the system.

- Coastal barriers located at the mouths of intermittent streams. In areas of intermittent stream flow, sand plugs frequently form during periods of low flow. These plugs may divert the stream for some distance parallel to the shoreline, creating a landward aquatic habitat. The boundary is drawn along the 20-foot contour on the mainland side of the aquatic habitat, as defined by the maximum documented extent of the stream channel or natural impoundment.

B. Delineation of Seaward Side

The unit contains the entire sand-sharing system, including the beach, shoreface, and offshore bars. The sand-sharing system of coastal barriers is normally defined by the 30-foot bathymetric contour. In large coastal embayments (e.g., Puget Sound), the sand-sharing system is more limited in extent. In these cases, the sand-sharing system is defined by the 20-foot bathymetric contour or a line approximately 1 mile seaward of the shoreline, whichever is nearer the coastal barrier.

Delineation of Undeveloped Coastal Barriers

Undeveloped coastal barriers, or

portions thereof, are delineated using U.S. Geological Survey topographic quadrangle maps and, when available, recent aerial photography. Development status is determined solely on the basis of the density of visible structures. The following delineation criteria are used:

A. Undeveloped Area Adjoins Continuous Development

The boundary is generally drawn perpendicular to the unprotected shoreline across the entire coastal barrier and the associated landward aquatic habitat at the break in development.

B. Undeveloped Areas Contain Isolated Cluster of Structures

Clusters of approximately 10 or more structures are specifically excluded from the unit where the impact of the development on geological and ecological processes is local and confined primarily to the fastland on which the structures are located. A boundary is drawn around the cluster of development to exclude it from the unit.

C. Partially Undeveloped Coastal Barriers: Inclusion of Associated Aquatic Habitat

The entire associated aquatic habitat is included in cases where the coastal barrier is 50 percent or more

undeveloped, as determined by the perpendicular projection of developed versus undeveloped portions on the unprotected shoreline. The boundary of the associated aquatic habitat is delineated in accordance with criteria in the previous section, except that the boundary on the protected side of the developed portion(s) is drawn along the interface between the aquatic habitat and the fastland portion on the coastal barrier. In cases where the coastal barrier is less than 50 percent undeveloped, the boundary is drawn as in (A) above.

D. Undeveloped Area Adjoining Intensively Capitalized Areas

The undeveloped area immediately adjoining condominiums and similar intensively capitalized sites is excluded because it is considered committed to stabilization. The boundary is drawn to exclude the areas of significant impact due to the development activity. Property lines are used where known and reasonably reflective of the area of significant impact.

Appendix B—Proposed Oregon Coastal Barrier Resources System Units

County	Unit number	Unit name	Approximate unit location	Quadrangle map name (1)
Clatsop	OR-01-91	Columbia R./Clatsop Spit	OR/WA Border to Slusher Lake	Cape Disappointment, Chinook Clatsop Spit, Warrenton, Gearheart.
Clatsop	OR-02-91	Necanicum R.	Gearhart	Gearhart.
Tillamook	OR-03-91	Chapman Beach/Ecola Creek	Cannon Beach	Tillamook Head.
Tillamook	OR-04-91	Nehalem Spit & Bay	South of Manzanita	Nehalem.
Tillamook	OR-05-91	Manhattan Beach	Manhattan Beach State Wayside	Nehalem.
Tillamook	OR-06-91	Bayocean Peninsula/Tillamook Bay	South Garibaldi	Garibaldi, Kilchis R., Netarts, Tillamook.
Tillamook	OR-07-91	Netarts Spit & Bay	South of Netarts	Netarts, Sand Lake.
Tillamook	OR-08-91	Sand Lake Estuary	North of Tierra Del Mar	Sand Lake.
Tillamook	OR-09-91	Nestucca Spit & Bay	South of Pacific City	Nestucca Bay.
Tillamook/Lincoln	OR-10-91	Kiwanda Beach	1 mile North of Neskowin	Nestucca Bay.
Lincoln	OR-11-91	Salmon River Estuary	South of Cascade Head	Neskowin.
Lincoln	OR-12-91	Salishan Spit/Siletz Bay	North of Cutler City	Lincoln City.
Lane	OR-13-91	South Beach	South of Newport	Newport South.
Lane	OR-14-91	Ona Beach/Beaver Creek	1 mile North of Seal Rock	Newport South.
Lane	OR-15-91	Baker Beach	North of Heceta Beach	Mercer Lake.
Lane	OR-16-91	Heceta Beach	Heceta Beach	Mercer Lake.
Lane/Douglas	OR-17-91	Oregon Dunes	Siuslaw R. to N. of North Spit	Mercer Lake, Goose Pasture, Tahkenitch Creek.
Douglas	OR-18-91	North Spit/Umpqua R.	N. & W. of Winchester Bay	Winchester Bay.
Coos	OR-19-91	North Spit & Coos Bay/Oregon Dunes	West of North Bend	Winchester B., North Bend, Empire, Lakeside, Charleston.
Coos	OR-20-91	Bullards Beach/Coquille R.	North of Bandon	Bullards, Bandon.
Coos	OR-21-91	New River	Bandon State Park to Floras Lk.	Bandon, Langlois, Floras Lake.
Coos	OR-22-91	Sixes River	1 mile N. of Cape Blanco	Cape Blanco.
Coos	OR-23-91	Elk River	2 miles S. of Cape Blanco	Cape Blanco.
Coos/Curry	OR-24-91	Garrison Lake	Port Orford	Cape Blanco, Port Orford.
Curry	OR-25-91	Euchre Creek	Ophir	Ophir.
Curry	OR-26-91	Greggs Creek	2 miles N. of Nesika Beach	Ophir.
Curry	OR-27-91	Hunter Creek	1 mile S. of Gold Beach	Gold Beach.
Curry	OR-28-91	Pistol River	2 miles S. of Cape Sebastian	Cape Sebastian.

Completed January 7, 1992.

¹ Several units cover portions of 2 or more maps.

Dated: April 16, 1992.

Marvin L. Plenert

Regional Director, Region 1, U.S. Fish and Wildlife Service.

[FR Doc. 92-9306 Filed 4-22-92; 8:45 am]

BILLING CODE 4310-55-M

INTERSTATE COMMERCE COMMISSION

Release of Waybill Data for Use By The Chlorine Institute, Inc.

The Commission has received a request from The Chlorine Institute, Inc. for permission to use certain data from the Commission's 1990 ICC Waybill Samples.

A copy of the request (WB143-4/8/92) may be obtained from the ICC Office of Economics.

The Waybill Sample contains confidential railroad and shipper data; therefore, if any parties object to this request, they should file their objections (an original and 2 copies) with the Director of the Commission's Office of Economics within 14 calendar days of the date of this notice. The rules for release of waybill data [Ex Parte 385 (Sub-No. 2)] are codified at 49 CFR 1244.8.

Contact: James A. Nash (202) 275-6864.
Sidney L. Strickland, Jr.,
Secretary.

[FR Doc. 92-9522 Filed 4-22-92; 8:45 am]

BILLING CODE 7035-01-M

[Finance Docket No. 32052]

North Coast Railroad Authority—Acquisition and Operation Exemption—Eureka Southern Railroad; Exemption

The North Coast Railroad Authority (NCRA), a noncarrier, has filed a notice of exemption to acquire and operate an approximately 160.5-mile line of the Eureka Southern Railroad (Eureka).¹ The line is located in Humboldt, Trinity and Mendocino Counties, CA, and extends between milepost 142.5, near Outlet, and milepost 284.1, near Eureka, including the appurtenant branch lines that extend between: (1) milepost 262.74, near Alton, and milepost 267.72, near Carlotta (the Carlotta Branch); (2) milepost 284.1, near Eureka, and milepost 295.57, near Korblex (the

Korblex Branch); and (3) milepost 292.84, near Arcata, and milepost 300.50, near Samoa (the Samoa Branch). The transaction was to have been consummated on or about April 1, 1992.²

Any comments must be filed with the Commission and served on: John M. Anderson, Davis, McClendon, Poovey & Anderson, Inc., 937 Sixth St., Eureka, CA 95501.

This notice is filed under 49 CFR 1150.31. If the notice contains false or misleading information, the exemption is void *ab initio*. Petitions to revoke the exemption under 49 U.S.C. 10505(d) may be filed at any time. The filing of a petition to revoke does not automatically stay the transaction.

By the Commission, David M. Konschnick,
Director, Office of Proceedings.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 92-9524 Filed 4-22-92; 8:45 am]

BILLING CODE 7035-01-M

[Finance Docket No. 32046]

Pioneer Railcorp—Acquisition of Control Exemption—Natchez Trace Railroad

Pioneer Railcorp¹ and its rail carrier subsidiaries (Pioneer) filed a notice of exemption under 49 CFR 1180.2(d) to acquire control of Natchez Trace Railroad (NTR).²

Pioneer controls four nonconnecting Class III rail carriers: West Jersey Railroad Co. (WJR) (which operates in New Jersey); Wabash & Grand River Railway Co. (Wabash) (which operates in Missouri); Fort Smith Railroad Co. (Fort Smith) (which operates in Arkansas); and Alabama Railroad Co. (ARC) (which operates in Alabama).³

¹ The Railway Labor Executives' Association (RLEA) filed a routine request mistakenly identifying NCRA's notice as a request for exemption from 49 U.S.C. 11343-11347 and seeking the imposition of employee protective conditions under section 11347. However, section 10901, not 11343, governs this transaction. The Commission has determined that labor protective conditions will not be imposed on this class of transactions unless exceptional circumstances are shown. Ex Parte 392 (Sub-No. 1), Class Exemption—Acq. & Oper. of R. Lines Under 49 U.S.C. 10901, 1 I.C.C.2d 610, 614 (1986), *aff'd sub nom. Illinois Commerce Commission v. I.C.C.*, 817 F.2d 145 (D.C. Cir. 1987). RLEA does not allege that exceptional circumstances are involved. Accordingly, labor protective conditions will not be imposed.

² Formerly Pioneer Railroad Company, Inc.

³ The notice of exemption identifies the transaction as an exempt continuance in control. Since Pioneer did not control NTR at the time the notice of exemption was filed, the transaction qualifies under the same rule as an exempt acquisition of control. 49 CFR 1180.2(d)(2).

⁴ Pioneer indicates that its continuance in control of the four named rail carriers was exempted in Finance Docket No. 31944, Pioneer Railroad

Recently, Pioneer entered into a stock purchase and sale agreement with Kyle Railways, Inc. (Kyle), scheduled for consummation April 3, 1992, to purchase all of the issued and outstanding shares of the capital stock of Kyle's wholly-owned subsidiary NTR, a Class III rail carrier, which owns and operates approximately 56.5 miles of line extending between Grand Junction, TN and Oxford, MS.⁴ The Grand Junction-Oxford line is hundreds of miles from the properties owned and operated by Pioneer's existing rail carrier subsidiaries, and Pioneer has no plans to acquire additional rail lines for the purpose of connecting the lines.

Pioneer indicates that: (1) The railroads would not connect with each other or any railroads in their corporate family; (2) the acquisition of control is not a part of a series of anticipated transactions that would connect the railroads with each other or any railroad in their corporate family; and (3) the transaction does not involve a Class I carrier. See 49 CFR 1180.2(d)(3).⁵

As a condition to the use of this exemption, any employees affected by the transaction will be protected by the conditions set forth in New York Dock Ry.—Control—Brooklyn Eastern Dist., 360 I.C.C. 60 (1979).

Petitions to revoke the exemption under 49 U.S.C. 10505(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction. Pleadings must be filed with the Commission and served on: John D. Heffner, Gerst, Heffner, Carpenter & Podgorsky, Suite 1107, 1700 K Street, NW., Washington, DC 20006, and Fritz

Company, Inc.—Continuance in Control Exemption—Alabama Railroad Co. (not printed), served October 9, 1991. That exemption, however, involved only Pioneer's continuance in control of ARC upon ARC's becoming a carrier. Pioneer's continuance in control of Wabash and WJR was the subject of a notice of exemption in Finance Docket No. 31899, served July 17, 1990. Pioneer's continuance in control of Fort Smith, upon Fort Smith's becoming a carrier, was the subject of a notice of exemption in Finance Docket No. 31894, served July 10, 1991.

⁴ The Grand Junction-Oxford line is the only NTR rail property identified by applicants. However, at the time the instant notice of exemption was filed, NTR also (1) owned a 15.06-mile line between Anniston and Wellington, AL, and (2) leased and operated Kyle's 28.36-mile line between Gantt Junction and Talladega, AL. NTR is selling its interests in these 2 lines to Eastern Alabama Railway, Inc., a newly-formed subsidiary of Kyle. See Finance Docket No. 32044, Eastern Alabama Railway—Acq. and Op. Exemption—Natchez Trace Railroad (not printed), served April 16, 1992.

⁵ Should NTR's interests in the Wellington-Anniston and Gantt Junction-Talladega lines (see footnote 4, *supra*) remain intact (which would be the case if the transaction proposed in Finance Docket No. 32044 is not consummated), Pioneer may need Commission authority to control those lines.

¹ In 1986 Eureka filed for bankruptcy under the United States Bankruptcy Code. For more than 5 years, the railroad has been operated in Chapter 11 bankruptcy. The California legislature created the NCRA for the express purpose of purchasing the Eureka assets out of bankruptcy. The funding for the purchase was authorized by the California Department of Transportation.

R. Kahn, Verner, Liipfert, Bernhard, McPherson, And Hand, 901 Fifteenth Street, NW., Washington, DC 20005.

Decided: April 16, 1992.

By the Commission, David M. Konschnik, Director, Office of Proceedings.

Sidney L. Strickland, Jr.

Secretary.

[FR Doc. 92-9523 Filed 4-22-92; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-33 (Sub-No. 71X)]

**Union Pacific Railroad Co.;
Abandonment Exemption in Lancaster
County, NE**

AGENCY: Interstate Commerce Commission.

ACTION: Abandonment exemption.

SUMMARY: The Commission grants the Union Pacific Railroad Company (UP) an exemption from the prior approval requirements of 49 U.S.C. 10903, *et seq.*, to abandon its Crete Branch, extending from milepost 0.00, near Aldo, to the end of the branch line at milepost 13.00, near Kramer, a distance of approximately 13.00 miles, in Lancaster County, NE. The exemption is subject to certain environmental, public use, and the standard labor protective conditions.

DATES: Unless a formal expression of intent to file an offer of financial assistance is received, this exemption will be effective on May 23, 1992. Formal expressions of intent to file an offer¹ of financial assistance under 49 CFR 1152.27(c)(2) and petitions to stay must be filed by May 13, 1992; and petitions for reconsideration must be filed by May 26, 1992. Requests for a public use condition must be filed by May 4, 1992.

ADDRESSES: Send pleadings referring to Docket No. AB-33 (Sub-No. 71X) to:

- (1) Office of the Secretary Case Control Branch, Interstate Commerce Commission, Washington, DC 20423, and
- (2) Petitioner's representatives: Joseph D. Anthofer, Esq. and Jeanna L. Regier, 1416 Dodge Street, Omaha, NE 68179.

FOR FURTHER INFORMATION CONTACT:

Richard B. Felder (202) 927-5610. TDD for hearing impaired: (202) 927-5721.)

SUPPLEMENTARY INFORMATION:

Additional information is contained in the Commission's decision. To purchase a copy of the full decision, write to, call, or pick up in person from: Dynamic

Concepts, Inc., room 2229, Interstate Commerce Commission Building, Washington, DC 20423. Telephone: (202) 289-4357/4359.

Decided: April 14, 1992.

By the Commission, Chairman Philbin, Vice Chairman McDonald, Commissioners Simmons, Phillip, and Emmett.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 92-9525 Filed 4-22-92; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF JUSTICE

Antitrust Division

**Notice Pursuant to the National
Cooperative Research Act of 1984;
Plastic Computer Integrated
Manufacturing Consortium**

Notice is hereby given that, on February 25, 1992, pursuant to section 6(a) of the National Cooperative Research Act of 1984, 15 U.S.C. 4301 *et seq.* ("the Act"), the Research and Technology Institute of West Michigan ("R&TI") filed a written notification simultaneously with the Attorney General and the Federal Trade Commission of a project entitled Plastic Computer Integrated Manufacturing Consortium. The notification discloses (1) the identities of the parties to the project and (2) the nature and objective of the project. The notification was filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Pursuant to section 6(b) of the Act, the identities of the parties to the project and its general areas of planned activity are given below:

The parties to the project are: ADAC Plastics, Inc., Grand Rapids, Michigan; Batts, Inc., Zeeland, Michigan; Cascade Engineering, Grand Rapids, Michigan; E.I. DuPont de Nemours & Co., Inc., Wilmington, Delaware; IBM U.S., Grand Rapids, Michigan; 3M, St. Paul, Minnesota; Prince Corporation, Holland, Michigan; Wright Plastic Products, Inc., Sheridan, Michigan; and Research and Technology Institute of West Michigan, Grand Rapids, Michigan.

The nature and planned activities of the Consortium are to evaluate and implement cost justified CIM technology in the plastics injection molding industry.

The Consortium will accomplish its mission by performing applied research to improve the productivity and profitability of CIM based systems, assisting the deployment of CIM based systems, and by educating and training

production engineering and management personnel on integrating, up-grading, and maintaining CIM based systems applied to plastics injection molding.

Initial membership in the Consortium was determined by R&TI following a review of responses to an open invitation for indications of interest, based on the capabilities and willingness of prospective members to help achieve the objectives of the Consortium.

Membership in the Consortium remains open, and the parties intend to file additional written notification disclosing all changes in membership of this project.

Joseph H. Widmar,

Director of Operations, Antitrust Division.

[FR Doc. 92-9440 Filed 4-22-92; 8:45 am]

BILLING CODE 4410-01-M

**Notice Pursuant to the National
Cooperative Research Act of 1984—
"Feasibility Study on Using Molecular
Sieves for Diesel NO_x Control"**

Notice is hereby given that, on February 28, 1992, pursuant to section 6(a) of the National Cooperative Research Act of 1984, 15 U.S.C. 4301 *et seq.* ("the Act"), Southwest Research Institute ("SwRI") filed a written notification simultaneously with the Attorney General and the Federal Trade Commission disclosing the addition of a party to its project entitled "Feasibility Study on Using Molecular Sieves for Diesel NO_x Control." The notification was filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, SwRI advised that Detroit Diesel Corporation, Detroit, Michigan (effective January 23, 1992) has become a party to the project.

No other changes have been made in either the membership or planned activity of the project.

On July 1, 1991 SwRI filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice ("The Department") published a notice in the *Federal Register* pursuant to section 6(b) of the Act on July 29, 1991, 56 FR 35877. On September 19, 1991, SwRI filed an additional written notification. The Department published a notice in the *Federal Register* in response to the additional notification on November 5, 1991, 56 FR 58528. On November 25, 1991, SwRI filed an additional written notification. The Department published a notice in the *Federal Register* in response to the additional notification on January 14, 1992, 57 FR 1493-1494.

¹ See *Exempt. of Rail Line Abandonment—Offers of Finan. Assist.*, 4 I.C.C.2d 164 (1987), and final rules published in the *Federal Register* on December 22, 1987 (52 FR 48440-48446).

Additionally, a correction notice to the November 5, 1991 notice was published on December 17, 1991, 56 FR 65541.

Joseph H. Widmar,
Director of Operations, Antitrust Division.
[FR Doc. 92-9442 Filed 4-22-92; 8:45 am]
BILLING CODE 4410-01-M

Lodging of Consent Decree Pursuant to Superfund (CERCLA); Schlumberger Industries, Inc.

In accordance with Department policy, 28 CFR 50.7, notice is hereby given that on April 15, 1992, a proposed Consent Decree in *United States v. Schlumberger Industries, Inc.* was lodged with the United States District Court for the District of South Carolina. The complaint in this action seeks injunctive relief and recovery of costs under sections 106 and 107(a) of the Comprehensive Environmental Response, Compensation, and Liability Act, as amended by the Superfund Amendments and Reauthorization Act of 1986, Public Law 99-499, 42 U.S.C. 9607(a). This action concerns the Superfund Site known as the Sangamo Weston/Twelve Mile Creek/Lake Hartwell PCB Contamination Site in Pickens County, South Carolina.

Under the proposed Consent Decree, the settling defendant will: (1) Perform the first phase of the remedy at the Site known as Operable Unit No. 1, which generally requires remediation of contamination within that portion of the Site comprising the Sangamo-Weston plant property and six satellite disposal areas known as the Nix, Welborn, Trotter, Brezeale, Dodgens, and Cross Roads properties, and specifically requires excavation and treatment of contaminated soils and extraction and treatment of contaminated groundwater, at a cost currently estimated in the range of \$47 to \$63 million, (2) reimburse the United States for all of its past response costs attributable to Operable Unit No. 1 (\$742,796.65); and (3) reimburse the United States for all future response and oversight costs incurred in connection with settling defendant's performance of the remedy under the Consent Decree. The Consent Decree reserves all of the United States' rights against the settling defendant with respect to the performance of future phases of the remedy which may address additional parts of the Site.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments concerning the proposed Consent Decree. Comments should be addressed to the Assistant Attorney General,

Environment and Natural Resources Division, U.S. Department of Justice, P.O. Box 7611, Ben Franklin Station, Washington, DC 20044, and should refer to *United States v. Schlumberger Industries, Inc.* (Sangamo Weston/Twelve Mile Creek/Lake Hartwell PCB Contamination Site) D.J. Ref. 90-11-2-696.

The proposed Consent Decree may be examined at any of the following offices: (1) The Office of the United States Attorney for the District of South Carolina, 300 East Washington St., Greenville, South Carolina; (2) the U.S. Environmental Protection Agency, Region 4, 345 Courtland Street NE., Atlanta, Georgia; and (3) the Environmental Enforcement Section Document Center, 601 Pennsylvania Avenue Building NW., Washington, DC (telephone (202) 347-2072). Copies of the proposed Consent Decree may be obtained by mail from the Environmental Enforcement Section Document Center, 601 Pennsylvania Avenue NW., P.O. Box 1097, Washington, DC 20004. Please enclose a check for \$28.75 (\$.25 per page reproduction charge without attachments) or \$104.50 (with attachments) payable to "Consent Decree Library."

Roger R. Clegg,
Acting Assistant Attorney General,
Environment & Natural Resources Division.
[FR Doc. 92-9443 Filed 4-22-92; 8:45 am]
BILLING CODE 4410-01-M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA-W-26,694 Watford City, ND; TA-W-26,695 Williston, ND]

Black Hills Trucking, Inc.; Affirmative Determination Regarding Application for Reconsideration

On March 9, 1992, the petitioners and other workers requested administrative reconsideration of the Department's Notice of Negative Determination Regarding Eligibility to Apply for Worker Adjustment Assistance at the subject firm. The Department's Negative Determination was issued on February 20, 1992 and published in the *Federal Register* on March 4, 1992 (57 FR 7794).

Its claimed that the Department was not consistent in certifying workers of Getter Trucking (TA-W-23,001) and denying trade adjustment assistance to workers of Black Hills Trucking.

Conclusion

After careful review of the application, I conclude that the claim is of sufficient weight to justify reconsideration of the Department of Labor's prior decision. The application is, therefore, granted.

Signed at Washington, DC, this 15th day of April 1992.

Stephen A. Wandner,
Deputy Director, Office of Legislation & Actuarial Services, Unemployment Insurance Service.

[FR Doc. 92-9481 Filed 4-22-92; 8:45 am]
BILLING CODE 4510-30-M

[TA-W-26,299]

Flowline Division, Whiteville, NC; Revised Determination on Reopening

On November 7, 1991, the Department issued a Negative Determination Regarding Eligibility to Apply for Worker Adjustment Assistance to workers of Flowline Division in Whiteville, North Carolina. The notice was published in the *Federal Register* on November 21, 1991 (56 FR 58711).

The petition was originally denied on the fact that the "contributed importantly" test and the increased import criterion for iron and steel forgings were not met.

On March 24, 1992, the Department certified Flowline workers producing butt weld fittings and flanges at a sister plant in New Castle, Pennsylvania. The basis for that certification was increased U.S. imports of butt weld fittings and flanges in 1991 compared to 1990 and late customer responses to the Department's survey showing several domestic supply houses increasing their import purchases of stainless steel butt weld fittings and flanges. Several customers commented that they are losing business to foreign sources on price alone.

On reopening, the Department found that Whiteville had the same customers and produced the same products as New Castle. New findings show that all of Whiteville's production is intermingled with New Castle's before being shipped to the national market.

Sales and production at Whiteville of butt weld fittings and flanges as well as employment decreased in the first nine months of 1991 compared to the same period in 1990.

Conclusion

After careful consideration of the new facts obtained on reopening it is concluded that increased imports of articles like or directly competitive with

butt weld fittings and flanges produced at the Flowline Division in Whiteville, North Carolina contributed importantly to the total or partial separation of workers at Whiteville, North Carolina. In accordance with the provisions of the Trade Act of 1974, I make the following revised determination:

All workers of the Flowline Division in Whiteville, North Carolina who became totally or partially separated from employment on or after January 1, 1991 are eligible to apply for adjustment assistance under section 223 of the Trade Act of 1974.

Signed at Washington, DC this 14th day of April 1992.

Stephen A. Wandner,

Deputy Director, Office of Legislation & Actuarial Service, Unemployment Insurance Service.

[FR Doc. 92-9482 Filed 4-22-92; 8:45 am]

BILLING CODE 4510-30-M

NATIONAL SCIENCE FOUNDATION

Advisory Panel for Biochemistry; Meeting

The National Science Foundation announces the following meeting.

Name: Advisory Panel for Biochemistry.

Date and Time: Monday and Tuesday, May 11-12, 1992, 8:30 a.m. to 5 p.m.

Place: The National Science Foundation, 1800 G. St., NW., room 1243.

Type Meeting: Closed.

Contact Person: Todd Martensen, Program Director, Biochemistry, room 325-D, Telephone: (202) 357-7945.

Purpose of Advisory Panel: To provide advice and recommendations concerning support for research.

Agenda: To review and evaluate research proposals as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552 b.(c)(4) and (6) of the Government in the Sunshine Act.

Dated: April 20, 1992.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 92-9463 Filed 4-22-92; 8:45 am]

BILLING CODE 7555-01-M

Special Emphasis Panel in Chemical and Thermal Systems; Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92-463, as amended), the National Science Foundation announces the following meeting:

Name: Special Emphasis Panel in Chemical and Thermal Systems.

Date and Time: May 13, 1992; 8:30 a.m. to 5 p.m.

Place: Room 540B, National Science Foundation, 1800 G Street, NW., Washington, DC 20550.

Type of Meeting: Closed.

Contact Person: Drs. Merrill K. King & Michael M. Chen, Program Directors, (202) 357-9606.

Purpose of Meeting: To provide advice and recommendations to the Division of Chemical and Thermal Systems concerning proposals submitted to the Division for financial support.

Agenda: To review and evaluate nominations for the NSF Research Equipment Grant Program.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b.(c)(4) and (6) of the Government in the Sunshine Act.

Dated: April 20, 1992.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 92-9465 Filed 4-22-92; 8:45 am]

BILLING CODE 7555-01-M

Special Emphasis Panel in Cross-Disciplinary Activities; Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92-463, as amended) the National Science Foundation announces the following meeting.

Name: Special Emphasis Panel in Cross-Disciplinary Activities.

Date and Time: May 11, 7 p.m.-9 p.m.; May 12, 8:30 a.m. to 5 p.m.; May 13, 8:30 a.m. to 5 p.m.

Place: Holiday Inn/Governor's House, Rhode Island Avenue and 17th Street, NW., Washington, DC 20036.

Type of Meeting: Closed.

Contact Person: Gerald L. Engel, Program Director, Office of Cross-Disciplinary Activities, Room 436, National Science Foundation, Washington, DC 20550, Telephone: (202) 357-7349.

Purpose of Meeting: To provide advice and recommendations concerning NYI nominations submitted to NSF for financial support.

Agenda: Panel to review and evaluate NYI Nominations.

Reason for Closing: The nominations being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b. (c) (4) and (6) of the Government in the Sunshine Act.

Dated: April 20, 1992.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 92-9467 Filed 4-22-92; 8:45 am]

BILLING CODE 7555-01-M

Advisory Panel for Decision, Risk, and Management Science; Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92-463, as amended), the National Science Foundation announces the following meetings:

Name: Advisory Panel for Decision, Risk, and Management Science.

Date & Time: May 14, 1992, 8:30 a.m. to 6 p.m.; May 15, 1992, 8:30 a.m. to 6 p.m.

Place: Room 1242, National Science Foundation, 1800 G Street, NW., Washington DC 20550.

Type of Meeting: Closed.

Contact Persons: Dr. N. John Castellan, Program Director, and Dr. Robin Cantor, Program Director, National Science Foundation, 1800 G Street NW., room 336, Washington, DC 20550, Telephone: 202/357-7569.

Purpose of Meeting: To provide advice and recommendations concerning research proposals submitted to NSF for financial support.

Agenda: To review and evaluate unsolicited research proposals, submitted to or being jointly considered by, the Decision, Risk, and Management Science Program as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552 b. (c)(4) and (6) of the Government in the Sunshine Act.

Dated: April 20, 1992.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 92-9468 Filed 4-22-92; 8:45 am]

BILLING CODE 7555-01-M

Special Emphasis Panel in Engineering Infrastructure Development; Meeting

SUMMARY: In accordance with the Federal Advisory Committee Act (Pub. L. 92-463, as amended), the National Science Foundation announces the following meeting.

SUPPLEMENTARY INFORMATION: The purpose of the meeting is to review and evaluate proposals and provide advice and recommendations as part of the selection process for awards. Because the proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as

salaries; and personal information concerning individuals associated with proposals, the meetings are closed to the public. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.

Name: Special Emphasis Panel in Engineering Infrastructure Development.
Date: May 14, 1992.

Time: 8:30 a.m. to 5 p.m.

Place: The Governor's House Holiday Inn, 17th Street at Rhode Island Avenue, NW., Washington, DC 20036.

Type of Meeting: Closed.

Agenda: Review and Evaluate Combined Research-Curriculum Development in Technological Areas of National Importance Proposals.

Contact: Dr. Frank D. Draper, Staff Associate, Human Resources Development, National Science Foundation, 1776-G DEID, Washington, DC 20550 (202-786-9634).

Dated: April 20, 1992.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 92-9486 Filed 4-22-92; 8:45 am]

BILLING CODE 7555-01-M

Advisory Panel for Human Cognition and Perception; Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92-463, as amended), the National Science Foundation announces the following meeting:

Name: Advisory Panel for Human Cognition and Perception.

Date and Time: May 11, 1992; 9 a.m.-5 p.m.

(Closed); May 12, 1992; 9 a.m.-10 p.m.

(Closed); 10 a.m.-12 noon (Open); 1 p.m.-5 p.m.

(Closed); May 13, 1992; 9 a.m.-5 p.m.

(Closed).

Place: Room 1242, National Science Foundation, 1800 G Street NW., Washington, DC 20550.

Type of Meeting: Part open.

Contact Person: Dr. Joseph L. Young, Program Director, Human Cognition and Perception, National Science Foundation, 1800 G Street NW., room 320, Washington, DC 20550. Telephone: (202) 357-9898.

Minutes: May be obtained from the contact person listed above.

Purpose of Meeting: To provide advice and recommendations concerning support for research in human cognition and perception.

Agenda: Open: May 12, 1992; 10 a.m. to 12 noon—General discussion of the research trends in human cognition and perception.

Closed: May 11-13, 1992; 9 a.m. to 5 p.m.—To review and evaluate research proposals as part of the selection process for awards.

Reason for Closing: The proposals being discussed include information of a proprietary or confidential nature, including technical information, financial data, such as salaries, and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C.

552b.(c) (4) and (6) of the Government in the Sunshine Act.

Dated: April 20, 1992.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 92-9474 Filed 4-22-92; 8:45 am]

BILLING CODE 7555-01-M

Special Emphasis Panel in Mechanical and Structural Systems; Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92-463, as amended), the National Science Foundation announces the following meeting:

Name: Special Emphasis Panel in Mechanical and Structural Systems Research Initiation and Research Equipment.

Date and Time: May 14-15, 1992; 8:30 a.m. to 5 p.m.

Place: State Plaza Hotel, Ambassador Conference Room, 2117 E Street NW., Washington, DC 20037.

Type of Meeting: Closed.

Contact Person: Dr. George F. Keyser, Program Director, 1800 G Street NW., rm. 1108, Washington, DC 20550. Telephone (202) 357-9542.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate RIA and REG proposals submitted to the Dynamic Systems and Control Program.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals.

These matters are exempt under 5 U.S.C. 552 b. (c) (4) and (6) of the Government in the Sunshine Act.

Dated: April 20, 1992.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 92-9473 Filed 4-22-92; 8:45 am]

BILLING CODE 7555-01-M

Advisory Committee for Physics; Meeting

The National Science Foundation announces the following meeting:

Name: Advisory Committee for Physics.

Date and Time: May 11, 1992; 9 a.m. to 1:30 p.m. (open); 1:30 p.m. to 3:30 p.m. (closed); 3:30 p.m. to 5:30 p.m. (open); May 12, 1992; 8:30 a.m. to 5 p.m. (open).

Place: Room 540, National Science Foundation, 1800 G Street, NW., Washington, DC 20550.

Type of Meeting: Part open.

Contact Person: Dr. David Berley, Acting Director, Division of Physics, room 341, National Science Foundation, Washington, DC 20550 (202) 357-7985.

Minutes: May be obtained from contact person listed above.

Purpose of Meeting: To provide advice and recommendations concerning support for research and education in physics.

Agenda: Open: May 11, 1992 a.m.—Discussion of FY 1992 and FY 1993 Budgets, Long Range Planning issues, future review topics and other items of interest to the administration of programs of the Division of Physics.

Closed: May 11, 1992 1:30 p.m.-3:30 p.m.—to review and evaluate research proposals.

Open: May 11, 1992 3:30 p.m.-5:30 p.m. May 12, 1992 a.m. and p.m.—Continuation of earlier discussions.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b.(c) (4) and (6) of the Government in the Sunshine Act.

Dated: April 20, 1992.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 92-9464 Filed 4-22-92; 8:45 am]

BILLING CODE 7555-01-M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50-366]

Georgia Power Co., et al.; Edwin I. Hatch Nuclear Plant, Unit No. 2; Withdrawal of Application for Amendment to Facility Operating License

The United States Nuclear Regulatory Commission (the Commission) has granted the request of Georgia Power Company, Oglethorpe Power Corporation, Municipal Electric Authority of Georgia, and City of Dalton, Georgia to withdraw its December 21, 1989, application for proposed amendment to Facility Operating License No. NPF-5 for the Edwin I. Hatch Nuclear Plant, Unit No. 2, located in Appling County, Georgia.

The proposed amendment would have revised the entire Unit 2 Technical Specifications (TS) as part of the Technical Specification Improvement Program (TSIP). The revisions were based on a standard TS format and content developed jointly by the nuclear steam supply system owners group and the Nuclear Regulatory Commission. The Hatch Unit 2 submittal represented the lead plant effort for the adoption of the General Electric BWR/4 standardized TS.

The Commission has previously issued a Notice of Consideration of Issuance of Amendment published in the Federal Register on February 7, 1990 (55 FR 4257). However, by letter dated April

1, 1992, the licensee withdrew the proposed change.

For further details with respect to this action, see the application for amendment dated December 21, 1989, and the licensee's letter dated April 1, 1992, which withdrew the application for the license amendment. The above documents are available for public inspection at the Commission's Public Document Room, 2120 L Street, NW., Washington, DC, and the Appling County Public Library, 301 City Hall Drive, Baxley, Georgia 31513.

Dated at Rockville, Maryland this 16th day of April, 1992.

For the Nuclear Regulatory Commission.

Kahtan N. Jabbour,

*Project Manager, Project Directorate II-3,
Division of Reactor Projects—I/II, Office of
Nuclear Reactor Regulation.*

[FR Doc. 92-9513 Filed 4-22-92; 8:45 am]

BILLING CODE 7590-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-30598; File No. SR-NSCC-
92-2]

Self-Regulatory Organizations; National Securities Clearing Corp.; Filing and Order Granting Approval on an Accelerated Basis of a Proposed Rule Change

April 16, 1992.

In the matter of Proposed Rule Change to Cease Selling Input Forms to Members, to Cease Showing Members' Projected Long Positions in Printed Projections Reports, and Producing Individual Receive and Deliver Tickets for Municipal Securities Transactions Processed on a Trade-For-Trade Basis.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),¹ notice is hereby given that on February 28, 1992, the National Securities Clearing Corporation ("NSCC") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared, for the most part, by NSCC. On March 20, 1992, NSCC requested that the Commission consider the proposed rule change pursuant to section 19(b)(2) of the Act rather than pursuant to section 19(b)(3)(A) as originally filed.² The Commission is

publishing this notice and order to solicit comments on the proposed rule change from interested persons and to approve the proposal on an accelerated basis.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change would eliminate the unnecessary production of forms and printed information and streamline NSCC's clearance and settlement services by ceasing the sale to members of certain forms, by no longer including in its printed Projection Reports members' projected long positions due to settle on the following day, and by ceasing production of individual receive and deliver orders for municipal securities transactions processed on a trade-for-trade basis.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Changes

In its filing with the Commission, NSCC included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. NSCC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

To eliminate the unnecessary production of forms and printed information and to streamline its clearance and settlement services, NSCC proposes to implement the following changes to its Procedures:

1. Once current supplies have been exhausted, NSCC will cease selling certain forms on which members submit written data.
2. NSCC will cease including in its printed Project Reports members' open long positions and settling trades in which the member is the buyer. Such information will continue to be made available to members through automated output of projection reports, whether in the form of machine readable output or print image.
3. NSCC will cease producing individual receive and deliver orders for municipal securities transactions that are processed on a trade-for-trade basis. Details of municipal securities trades processed on a trade-for-trade basis will

continue to be set forth on the compared trade summaries for non-CNS securities that are made available to members on a daily basis. Members will be charged for setting forth the details of such transactions on the compared trade summaries as if that constituted the production of receive and deliver orders.

The foregoing changes are intended to eliminate unnecessary paper and will have virtually no effect on members' access to information on forms. With respect to ceasing to sell certain forms to its members, NSCC notes that it will supply each member with a form book from which photocopies of these forms can be produced. With respect to the elimination of projected long positions and settling trades from printed copies of NSCC's Projection Reports, NSCC notes that (i) Projection Reports are used by members primarily to determine their short positions due to settle on the following day and (ii) projected long positions will remain available to members through automated output. With respect to the elimination of the production of individual receive and deliver orders for municipal securities transactions processed on a trade-for-trade basis, NSCC notes that most of such transactions are no longer settled by means of physical delivery and, therefore, do not require delivery tickets. In addition, in the dwindling number of instances in which such transactions are settled by physical delivery, NSCC has evidence that many members use their own, rather than NSCC's, deliver tickets.³

NSCC believes the proposed rule change will help eliminate unnecessary paper from NSCC's clearance and settlement process and help NSCC effect clearance and settlement in a more efficient manner. NSCC believes these changes are thus consistent with the requirements of the Act and in particular with sections 17A(b)(3)(A) and (F) thereunder.⁴

(B) Self-Regulatory Organization's Statement on Burden on Competition

NSCC does not believe that the proposed rule changes will have an impact or impose a burden on competition.

¹ Municipal Securities Rulemaking Board ("MSRB") Rule G-12(e)(iii) requires that a delivery ticket accompany physical deliveries of municipal securities. MSRB Rules do not, however, require the delivery ticket to be produced by the registered clearing agency that compared the related trade pursuant to MSRB Rule G-12(f).

⁴ 15 U.S.C. 78q-1(b)(3)(A) and (F) (1988).

¹ 15 U.S.C. 78a(b)(1) (1988).

² Letter from Peter J. Axilrod, Associate General Counsel, NSCC, to Jerry W. Carpenter, Branch Chief, Division of Market Regulation, Commission (March 20, 1992).

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

While NSCC has notified members of the substance of the proposed changes to its Procedures by Important Notices, formal comments on the specific changes in this filing have been neither solicited nor received. Members will be notified of the specific changes in this filing by an Important Notice. NSCC will notify the Commission of any written comments it receives.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Commission believes that the proposal is consistent with section 17A of the Act and specifically with section 17A(b)(3)(F) of the Act. That section requires, among other things, that the rules of a clearing agency be designed to "remove impediments to and perfect the mechanism of a national system for the prompt and accurate clearance and settlement of securities transactions." * * * * Ceasing the production of the hardcopy version of certain forms and reports as discussed in NSCC's proposal should streamline NSCC's clearance and settlement system and, thereby, should promote the prompt and efficient clearance and settlement of securities transactions. In the long run, benefits arising from the elimination of hardcopy forms and reports brought about by this proposed rule change will likely be passed on to NSCC's participants in the form of lower fees.

NSCC has requested that the Commission find good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice of filing. The Commission finds good cause for so approving because it believes that mandating NSCC to continue to produce the hardcopy version of the discussed forms and reports as required under NSCC's former rules prolongs unwanted and costly services.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to

the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to File No. SR-NSCC-92-2 and should be submitted by May 14, 1992.

V. Conclusion

On the basis of the foregoing, the Commission finds that the proposed rule filing is consistent with the Act and in particular with section 17A of the Act.

It is therefore ordered, pursuant to section 19(b)(2) of the Act,⁶ that the proposed rule change (File No. SR-NSCC-92-2) be, and hereby is, approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.⁷

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 92-0451 Filed 4-22-92; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-30597; File No. SR-Phlx-91-47]

Self-Regulatory Organizations; the Philadelphia Stock Exchange, Inc.; Order Approving Proposed Rule Relating to the Insider Trading Sanctions and Fraud Enforcement Act of 1988

April 16, 1992.

I. Introduction

On December 9, 1991, the Philadelphia Stock Exchange ("Phlx" or "Exchange") submitted to the Securities and Exchange Commission ("SEC" or "Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")¹ and rule 19b-4 thereunder,² a proposed rule change to adopt Rule 761 and equity and option floor procedure advices relating to the Insider Trading Sanctions and Fraud Enforcement Act of 1988 ("ITSFEA") as it relates to Exchange trading floor units (floorbrokers, Registered Options

Traders ["ROTs"], and specialists). Notice of the proposal appeared in the Federal Register on January 8, 1992.³ No comments were received on the proposal. This order approves the proposal.

II. Description of the Proposal

A. Background

In November 1988, Congress enacted ITSFEA, which was designed primarily to prevent, deter, and prosecute insider trading.⁴ Section 15(f) of the Act, created pursuant to the promulgation of ITSFEA, requires brokers-dealers to establish and maintain procedures designed to prevent the misuse of material, nonpublic information by such broker or dealer or any person associated with such broker or dealer. ITSFEA also grants the Commission broad rulemaking authority concerning these so-called Chinese Wall procedures. Pursuant to this grant of rulemaking authority, the Commission's Division of Market Regulation ("Division") undertook a comprehensive review of broker-dealer policies and procedures and, in March 1990, issued a report of its findings, conclusions, and recommendations.⁵

In the Report, the Division expressed its concern about the need for firms to "maintain documentation sufficient to recreate actions taken pursuant to Chinese Wall procedures" and urged the self-regulatory organizations ("SROs") to develop standards of documentation for their member firms. In the Report, the Division also concluded that Commission rulemaking was not currently necessary. Instead, the Division found that improvements to broker-dealer Chinese Wall policies would best be effectuated by self-regulatory examination programs, supplemented by Commission oversight.⁷

B. The Proposal

The proposed rule change would adopt Exchange Rule 761, and equity and option floor procedure advices,⁸

¹ Securities Exchange Act Release No. 30122 (December 30, 1991), 57 FR 729.

² Public Law No. 100-704.

³ See Broker-Dealer Policies and Procedures Designed to Segment the Flow and Prevent the Misuse of Material Nonpublic Information ("Report"), Division, March 1990.

⁴ *Id.* at 26.

⁵ *Id.* at 23.

⁶ The Exchange proposes to adopt Advices Number EF-13 and OF-13 in accordance with rule 761.

⁷ 15 U.S.C. 78q-1(b)(3)(F) (1988).

⁸ 15 U.S.C. 78s(b)(2) (1988).

⁹ 17 CFR 200.30-3(a)(12) (1991).

¹⁰ 15 U.S.C. 78s(b)(1) (1988).

¹¹ 17 CFR 240.19b-4 (1991).

which are designed to supplement Section 15(f) of the Act. Rule 761, and the related advices, entitled Supervisory Procedures Relating to ITSFEA, would contain two primary parts. First, the rule and the advices would require member organizations to maintain written supervisory procedures in accordance with the requirements of ITSFEA. Rule 761 and the advices would not contain specific requirements for member organizations under federal laws, except to state that the procedures adopted by member organizations in compliance with the provisions of ITSFEA must be reasonably designed to prevent the misuse of material, non-public information by their employees.

The second part of rule 761, and the proposed advices, would set forth additional requirements that Phlx trading floor units (floorbrokers, ROTs, and specialists) must satisfy in addition to the requirements under ITSFEA. Specifically, each new employee of a Phlx trading floor unit must be given a copy of the most current version of the Exchange's "Notice of Insider Trading" ("Notice"), or a document substantially similar to the Notice. Within 10 business days, each new trading floor unit employee would be required to sign and return the Notice to the employer. By signing the Notice, the employee would agree to provide the employer firm with all trading accounts for which the employee maintains a beneficial interest, including all personal and household accounts of the employee. In addition, by his or her signature on the notice, the employee would ensure that delivery of all related account statements will be made directly from the firm(s) maintaining the account to the employer.

Further, rule 761 and the advices would require that all Phlx floor units complete the Exchange's "ITSFEA Accounts List," comprising all accounts submitted in connection with the requirements stated above (e.g., all trading accounts for which a floor unit employee maintains a beneficial interest) and all proprietary accounts of the units. In addition, rule 761 and the advices would require that a supervisory person of each trading unit conduct a monthly review of all activities occurring in employee account statements with a view toward identifying the possible misuse of material non-public information. In the event that any unusual profits are identified, a report must be made promptly to the Exchange's Market Surveillance Department. Finally, rule 761 would state that, in instances where written supervisory procedures relating

to ITSFEA have been adopted for a Phlx trading unit in connection with requirements under another national securities exchange and have been approved by the respective designated examining authority ("DEA"), the Phlx requirements set forth in the rule and the advices would not apply.

The advices would set forth certain penalties that the Exchange could assess on member organizations for failure to properly maintain the ITSFEA Account List, or in instances where member organizations fail to act in accordance with the conduct required by the advice. Specifically, the Exchange could assess fines in the following amounts: \$250 for the first occurrence; \$500 for the second occurrence; and sanctions which are discretionary with the Business Conduct Committee for the third occurrence.

III. Discussion

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, the requirements of Section 6 of the Act.⁹ Specifically, the Commission believes that the proposal is consistent with the section 6(b)(5) requirements that the rules of an exchange be designed to promote just and equitable principles of trade and prevent fraudulent and manipulative acts and practices.

The Phlx proposal is designed to set standards and bring consistency to member Chinese Wall practices. As stated above, in its Report, the Division urged the SRO's to develop standards of documentation for their member firms. The Commission believes that the Phlx proposal addresses adequately the concerns raised in the Division's Report and that it should help to prevent the misuse of material, nonpublic information by brokers and dealers.

Specifically, the Commission believes that the provision of rule 761 and the advices requiring member organizations to maintain written supervisory procedures reasonably designed to prevent the misuse of material, non-public information by their employees as required by ITSFEA should help ensure that Phlx members comply with the requirements under ITSFEA. In addition, compliance with the additional requirements imposed upon members by rule 761 and the advices should further assist members in preventing the misuse of material, nonpublic information. First, requiring new employees of Phlx floor units to supply their member firms with

all trading accounts for which such person maintains a beneficial interest should help members to monitor the trading activities of their employees. The requirement should also make employees aware of the prohibition against the misuse of material, nonpublic information. In addition, the Commission believes that requiring unit employees to update the Exchange's "ITSFEA Accounts List" should assist Exchange and Commission review of those records and make any fraudulent acts easier to deter and detect. Finally, the periodic review of brokerage accounts by members should assist the Exchange and the Commission in detecting the misuse of material, nonpublic information and should facilitate the deterrence of illegal activity.

It is Therefore Ordered, pursuant to section 19(b)(2) of the Act,¹⁰ that the proposed rule change is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹¹

Margaret H. McFarland,
Deputy Secretary.

[FR Doc. 92-9452 Filed 4-22-92; 8:45 am]
BILLING CODE 8010-01-M

[File No. 500-1]

College Bound, Inc.; Order Directing Suspension of Trading

April 20, 1992.

It appears to the Securities and Exchange Commission that there is a lack of adequate current information concerning the securities of College Bound, Inc. and that questions have been raised about the adequacy and accuracy of the financial statements including, among other things, the revenues reflected therein, of College Bound, Inc. contained in periodic reports filed with the Commission. The Commission is of the opinion that the public interest and the protection of investors require a suspension of trading in the securities of College Bound.

Therefore, it is ordered, pursuant to section 12(k) of the Securities Exchange Act of 1934, that trading in the securities of College Bound, on the National Association of Securities Dealers, Inc.'s National Market System or otherwise, is suspended for the period from 9:30 a.m. e.d.t., April 20, 1992 through 11:59 p.m. e.d.t., on May 1, 1992.

¹⁰ 15 U.S.C. 78s(b)(2) (1988).

¹¹ 17 CFR 200.30-3(a)(12) (1991).

⁹ 15 U.S.C. 78f (1988).

By the Commission.
Margaret H. McFarland,
Deputy Secretary.
[FR Doc. 92-9512 Filed 4-22-92; 8:45 am]
BILLING CODE 8010-01-M

DEPARTMENT OF STATE

[Public Notice 1611]

Study Group 6 of the U.S. Organization for the International Radio Consultative Committee (CCIR); Meeting

The Department of State announces that Study Group 6 of the U.S. Organization for the International Radio Consultative Committee (CCIR) will hold an open meeting on May 7, 1992, at the Department of Commerce, 14th and Pennsylvania Avenue, NW., Washington, DC, from 9:30 a.m. to 12:30 p.m. in Room 1414.

Study Group 6 deals with matters concerning the propagation of radio waves in ionized media at and above the surface of the Earth and the characteristics of radio noise for the purpose of improving radiocommunication systems. The purpose of the meeting on May 7, is to review the status of U.S. Study Group 6 activity in preparation for the Study Group 6 meeting that will be held May 25-27, 1992 in Geneva.

Members of the general public may attend the meeting and join in the discussions subject to instructions of the Chairman. Persons intending to attend the meeting should advise Dr. Charles Rush, National Telecommunications and Information Administration, U.S. Department of Commerce, 325 Broadway, Boulder, Colorado 80303, phone (303) 497-3821.

Dated: April 13, 1992.
Warren G. Richards,
Chairman, U.S. CCIR National Committee.
[FR Doc. 92-9438 Filed 4-22-92; 8:45 am]
BILLING CODE 4710-07-M

Bureau of African Affairs

[Public Notice 1608]

Certification of South African Purchasers for Export-Import Bank Support

SUMMARY: The Department of State is commencing a new certification of South African purchasers for Export-Import support under section 2(b)(9) of the Export-Import Bank Act of 1945, as amended (Pub. L. 99-440; 100 Stat. 1096) (originally known as the Evans Amendment). Purchasers who wish to

apply for certification should complete the required fair labor standards questionnaire and submit it to the United States Embassy or nearest United States Consulate in South Africa. Submissions will then be forwarded to the Commercial Attaché in Johannesburg for review. Persons wishing to know which South African purchasers have submitted applications may contact the Economic Section of the United States Embassy in South Africa, the Commercial Attaché at the United States Consulate General in Johannesburg or the Office of Southern African Affairs at the Department of State. Interested parties are invited to submit any written comments relevant to the Department's review, bearing in mind that the Department intends to proceed in a highly expedited manner in order to facilitate U.S. exports to South Africa.

ADDRESSES: Purchaser questionnaires can be obtained from the United States Embassy in Pretoria, Thibault House, 225 Pretorius Street; or the United States Consulates General in Cape Town, Broadway Industries Center, Heerengracht, Foreshore; in Durban, Durban Bay House, 29th Floor, Kine Center, Commissioner and Kruis Streets (P.O. Box 2155).

Information regarding which South African purchasers have submitted applications can be obtained from the Economic Section of the United States Embassy, 225 Pretorius Street, Pretoria, (27) (12) 28-4266; the Foreign and Commercial Service, United States Consulate General, Johannesburg, (27) (11) 331-1681; or the Office of Southern African Affairs, Room 4238, Department of State, Washington, DC 20520-3430, (202) 647-9866.

Comments should be sent to the Economic Section of the United States Embassy, 225 Pretorius Street, Pretoria, or the Office of Southern African Affairs, room 4238, Department of State, Washington, DC 20520-3430.

FOR FURTHER INFORMATION CONTACT: Robert Bruce, Office of Southern African Affairs, (202) 647-9866.

SUPPLEMENTARY INFORMATION: Section 2(b)(9) of the Export-Import Bank Act of 1945, as amended (Pub. L. 99-440; 100 Stat. 1096) (originally known as the Evans Amendment), provides in relevant part that the Export-Import Bank may not support any export to private purchasers in South Africa unless the Secretary of State certifies that the purchaser has endorsed and proceeded toward the implementation of the following fair labor principles: Nonsegregation of the races in all work facilities; equal and fair employment for

all employees; equal pay for equal work for all employees; initiation and development of training programs to prepare nonwhite South Africans for supervisory, administrative, clerical, and technical jobs; increasing the number of nonwhites in management and supervisory positions; a willingness to engage in collective bargaining with labor unions; and improving the quality of life for employees in such areas as housing, transportation, schooling, recreation, and health facilities. The Secretary of State has delegated the authority to certify South African purchasers to the Assistant Secretary for African Affairs. (Delegation of Authority No. 194, 57 FR 11132)

In order to obtain certification, South African purchasers must submit to the United States Embassy or a United States Consulate in South Africa a completed fair labor standards questionnaire. On-site inspections may be required to clarify or confirm questionnaire responses. Persons wishing to know which firms have submitted questionnaires may contact the United States Embassy in South Africa or the Office of Southern African Affairs at the Department of State and should submit any comments in writing directly to the Office of Southern African Affairs or the United States Embassy in Pretoria, bearing in mind that the Department intends to proceed in a highly expedited manner in order to facilitate U.S. exports to South Africa.

If certification is granted, the Department will so notify the purchaser and the Export-Import Bank. Certification is effective for one year following the date of the decision, unless revoked upon a finding that the questionnaire or information subsequently provided by the purchaser contained false or misleading information. A certified purchaser must submit a new questionnaire prior to the expiration of the one-year certification period in order to continue to receive Export-Import Bank support. If certification is denied, the United States Embassy in South Africa will so notify the purchaser, and the purchaser may resubmit a new questionnaire at any time.

Dated: April 13, 1992.
Jeffrey Davidow,
Acting Assistant Secretary for African Affairs.

[FR Doc. 92-9488 Filed 4-22-92; 8:45 am]
BILLING CODE 4710-26-M

Bureau of Diplomatic Security

[Public Notice 1609]

Public Information Collection Requirement Submitted to OMB for Review**AGENCY:** Department of State.

ACTION: The Department of State has resubmitted the following public information collection requirement to OMB for review and clearance under the Paperwork Reduction Act of 1980, 44 U.S.C. chapter 35.

SUMMARY: Sections 207, 208 and 601 of Public Law 99-440, as amended, the Comprehensive Anti-Apartheid Act of 1986 (CAAA), require certain United States nationals operating businesses in South Africa to adhere to a Code of Conduct or Fair Labor Principles. The regulations implementing the CAAA (22 CFR 60-65) establish mechanisms whereby U.S. nationals meeting certain criteria may register with and make annual reports to the Department of State. The information collection submitted for review seeks reinstatement of the questionnaire developed to enable registered firms to document their adherence to the Code of Conduct or Fair Labor Principles. The following summarizes the information collection proposal submitted to OMB:

Type of request—Reinstatement.

Originating office—Bureau of African Affairs.

Title of information collection—South Africa and Fair Labor Standards Questionnaire.

Frequency—Annual.

Respondents—U.S. firms operating in South Africa.

Estimated number of respondents—26.
Average hours per response—30-40 hours.

Total estimated burden hours—1080-1340 hours.

The existing rule containing this collection of information was published in the *Federal Register* on December 31, 1985 (50 FR 53308).

ADDITIONAL INFORMATION OR

COMMENTS: Copies of the proposed forms and supporting documents may be obtained from Gail J. Cook, (202) 647-3538. Comments and questions should be directed to (OMB) Lin Liu, (202) 395-7340.

Dated: April 13, 1992.

Sheldon J. Krys,

Assistant Secretary for Diplomatic Security.

[FR Doc. 92-9489 Filed 4-22-92; 8:45 am]

BILLING CODE 4710-43-M

DEPARTMENT OF TRANSPORTATION**Federal Aviation Administration****Air Carrier Operations Subcommittee of the Aviation Rulemaking Advisory Committee; Meeting**

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of meeting.

SUMMARY: The FAA is issuing this notice to advise the public of a meeting of the Federal Aviation Administration Air Carrier Operations Subcommittee of the Aviation Rulemaking Advisory Committee.

DATES: The meeting will be held on May 12, 1992, at 9 a.m.

ADDRESSES: The meeting will be held in the Department of Transportation, Nassif Building, room 4436-4438, 400 7th Street, SW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Mrs. Etta Schelm, Flight Standards Service, Air Transportation Division (AFS-200), 800 Independence Avenue, SW., Washington, DC 20591, telephone (202) 267-8168.

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. app. II), notice is hereby given of a meeting of the Air Carrier Operations Subcommittee to be held on May 12, 1992, at Department of Transportation, Nassif Building, room 4436-4438, 400 7th Street, SW., Washington, DC. The Agenda for this meeting will include progress reports from the Fuel Requirements Working Group, Wet Leasing Working Group, Autopilot Engagement Requirements Working Group, and Controlled Rest on the Flight Deck Working Group. Each Working Group Chair will report on the progress of the working group. The Airport Noise Assessment Working Group will present its final report. The subcommittee will discuss the addition of a new task, entitled "Part 135 Pilots Duty Period."

Attendance is open to the interested public but may be limited to the space available. The public must make arrangements in advance to present oral statements at the meeting or may present written statements to the committee at any time. Arrangements may be made by contacting the person listed under the heading "FOR FURTHER INFORMATION CONTACT."

Issued in Washington, DC, on April 16, 1992.

David S. Potter,

Executive Director, Air Carrier Operations Subcommittee, Aviation Rulemaking Advisory Committee.

[FR Doc. 92-9510 Filed 4-22-92; 8:45 am]

BILLING CODE 4910-13-M

National Highway Traffic Safety Administration**Automotive Fuel Economy Program Report to Congress**

The attached document, Automotive Fuel Economy Program, Sixteenth Annual Report to the Congress, has been prepared pursuant to section 502(a)(2) of the Motor Vehicle Information and Cost Savings Act (Pub.L. 92-513), as amended by the energy Policy and Conservation Act (Pub.L. 94-163) which requires in pertinent part that "each year beginning 1977, the Secretary shall transmit to each House of Congress, and publish in the *Federal Register*, a review of average fuel economy standards under this part."

Barry Felrice,

Associate Administration for Rulemaking.

AUTOMOTIVE FUEL ECONOMY PROGRAM**SIXTEENTH ANNUAL REPORT TO THE CONGRESS****JANUARY 1992****Table of Contents**

- Section I: Introduction
- Section II: Fuel Economy Improvement by Manufacturers
- Section III: 1991 Activities
- Section IV: Use of Advanced Technology

Section I: Introduction

This Sixteenth Annual Report to the Congress summarizes the activities of the National Highway Traffic Safety Administration (NHTSA) during 1991 regarding implementation of applicable Sections of Title V: "Improving Automotive Fuel Efficiency," of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 1901 *et seq.*), as amended (the Act). Section 502(a)(2) of the Act requires submission of a report each year. Included in this report are sections summarizing rulemaking activities during 1991 and a discussion of the use of advanced automotive technology by the industry as required by section 305, title III of the Department of Energy Act of 1978 (Pub. L. 95-238).

Title V of the Act requires the Secretary of Transportation to

administer a program for regulating the fuel economy of new passenger cars and light trucks in the United States market. The authority to administer the program has been delegated by the Secretary to the Administrator of NHTSA, 49 CFR 1.50(f).

NHTSA's responsibilities in the fuel economy area include: (1) Establishing and amending average fuel economy standards for manufacturers of passenger cars and light trucks, as necessary; (2) promulgating regulations concerning procedures, definitions, and reports necessary to support the fuel economy standards; (3) considering petitions for exemption from established fuel economy standards by low volume manufacturers (those producing fewer than 10,000 passenger cars annually worldwide) and establishing alternative standards for them; (4) preparing reports to Congress annually on the fuel economy program; (5) enforcing fuel economy standards and regulations; and (6) responding to petitions concerning domestic production by foreign manufacturers and other matters.

Passenger car fuel economy standards have been established by Congress for Model Year (MY) 1985 and thereafter at a level of 27.5 mpg. NHTSA has authority to amend the standard above or below that level. Standards for light trucks have been established by NHTSA for MYs 1979 through 1994. Most recently, on April 4, 1991, NHTSA published a final rule that established MYs 1993 and 1994 light truck fuel economy standards. The agency set a combined standard of 20.4 miles per gallon (mpg) for MY 1993 and 20.5 mpg for MY 1994. This rulemaking continued the policy, which first applied to the MY 1992 light truck standard, of not establishing optional separate standards for two-wheel and four-wheel drive fleets for either model year (56 FR 13773). All current standards are listed in Table I-1.

Included in the Alternative Motor Fuels Act of 1988, (Pub. L. 100-494; October 14, 1988), which amended the Motor Vehicle Information and Cost Savings Act, is special corporate average fuel economy (CAFE) treatment for vehicles capable of using nonpetroleum fuels in MY 1993 and thereafter. The intent of this provision is to encourage manufacturers to produce vehicles that can operate on alternative fuels by providing CAFE credit incentives for these vehicles.

The Persian Gulf crisis of 1990-1991 intensified national interest in the conservation of oil. Consequently, the vehicle fuel economy standards remain under scrutiny as a means to increase conservation. However, modifications to

the standards listed in Table I-1 would not produce any reduction in oil consumption in the short term. By statute, increases in the standards cannot be promulgated less than 18 months prior to the beginning of the model year to which they pertain. For example, increases made by March 31, 1992, would not be effective until MY 1994. Thus, any changes in CAFE standards made today would not alleviate any short term crisis. The effect would only begin to be felt almost two years hence, and then only gradually as the more efficient new vehicles are incorporated into the total vehicle fleet which averages almost 8 years old.

TABLE I-1.—FUEL ECONOMY STANDARDS FOR PASSENGER CARS AND LIGHT TRUCKS MODEL YEARS 1978 THROUGH 1994 (IN MPG)

Model year	Passenger cars	Light trucks ¹		
		Two-wheel drive	Four-wheel drive	Combined ^{2,3}
1978	* 18.0			
1979	* 19.0	17.2	15.8	
1980	* 20.0	16.0	14.0	(⁴)
1981	22.0	* 16.7	15.0	(⁵)
1982	24.0	18.0	16.0	17.5
1983	26.0	19.5	17.5	19.0
1984	27.0	20.3	18.5	20.0
1985	* 27.5	† 19.7	* 18.9	† 19.5
1986	* 26.0	20.5	19.5	20.0
1987	* 26.0	21.0	19.5	20.5
1988	* 26.0	21.0	19.5	20.5
1989	¹⁰ 26.5	21.5	19.0	20.5
1990	* 27.5	20.5	19.0	20.0
1991	* 27.5	20.7	19.1	20.2
1992	* 27.5			20.2
1993	* 27.5			20.4
1994	* 27.5			20.5

¹ Standards for MY 1979 light trucks were established for vehicles with a gross vehicle weight rating (GVWR) of 6,000 lbs. or less. Standards for MY 1980 and beyond are for light trucks with a GVWR of 8,500 lbs. or less.

² For MY 1979, light truck manufacturers could comply separately with standards for four-wheel drive, general utility vehicles and all other light trucks, or combine their trucks into a single fleet and comply with the 17.2 mpg standard.

³ For MYs 1982-1991, manufacturers could comply with the two-wheel and four-wheel drive standards or could combine all light trucks and comply with the combined standard.

⁴ Established by Congress in Title V of the Act.
⁵ A manufacturer whose light truck fleet was powered exclusively by basic engines which were not also used in passenger cars could meet standards of 14 mpg and 14.5 mpg in MYs 1980 and 1981, respectively.

⁶ Revised in June 1979 from 18.0 mpg.

⁷ Revised in October 1984 from 21.6 mpg for two-wheel drive, 19.0 mpg for four-wheel drive, and 21.0 mpg for combined.

⁸ Revised in October 1985 from 27.5 mpg.

⁹ Revised in October 1986 from 27.5 mpg.

¹⁰ Revised in September 1988 from 27.5 mpg.

Two fuel economy bills were actively considered by the Senate during the first session of the 102nd Congress, and one bill was introduced in the House of Representatives. Each of the bills would

require higher fuel economy standards in future years. The Administration opposed those bills which it believed would have required unreasonable increases in fuel economy because such legislation, no matter how well intended, would result in significant adverse economic and safety effects. The Department is concerned particularly about safety implications of significantly higher fuel economy standards. During 1991, NHTSA completed several analyses on the impacts of weight and size reductions on occupant safety. These studies concluded that, all else being equal, the reduction in the average weight of new cars (with corresponding reductions in car length and width) from the 1970s to the early 1980s resulted in increases of nearly 2,000 fatalities and 20,000 serious injuries per year. Because future fuel economy improvements on the order of those mandated by some of the bills would necessitate substantial reductions in vehicle size and weight, the Department concluded that these bills would have an adverse impact on occupant safety.

To estimate the potential for vehicle fuel economy improvements over the next decade, NHTSA has contracted with the National Academy of Sciences (NAS) to study the extent to which automobile fuel economy can be improved while still meeting environmental and safety needs. The study's authors were requested to evaluate the fuel economy levels that are practical and achievable over the next decade, and identify those technologies that could bring them about. The NAS report is also expected to examine the safety implications and economic effects of various degrees of improved fuel economy. NAS has informed NHTSA that the study will be completed in April 1992.

As part of developing the National Energy Strategy (NES), the Department of Energy and other government agencies, including the Department of Transportation (DOT), reviewed policy options to address overall transportation energy consumption. The NES report was published in February 1991. The NES does not include a recommendation to increase CAFE standards at this time.

Before proceeding with additional fuel economy requirements, it is important to assess all of the regulatory requirements facing the automobile industry in the 1990s and beyond, including those related to emissions, safety, and fuel efficiency. In addition, the Administration believes that a full understanding of all important

beneficial and detrimental effects of improvements in the fuel economy of vehicles is required, including their impacts on safety, increased vehicle miles of travel, and possible increased automobile emissions. As part of the NES, the DOT agreed to sponsor the study with the NAS to address many of these issues.

Section II: Fuel Economy Improvement by Manufacturers

The fuel economy achievements for domestic and foreign manufacturers in MY 1990 have been updated to include final Environmental Protection Agency (EPA) calculations, where available, since the publication of the Fifteenth Annual Report to the Congress. These fuel economy achievements and current data for MY 1991 are listed in Tables II-1 and II-2.

Overall fleet fuel economy improved for passenger cars from 28.0 mpg in MY 1990 to 28.3 in MY 1991. Despite continued lower fuel prices, CAFE values increased over MY 1990 levels for 14 of 21 passenger car manufacturers. (See Table II-1.) These 14 companies accounted for about 70 percent of the total MY 1991 production.

Manufacturers continued to introduce new technologies and more fuel-efficient models, as well as some larger, less fuel-efficient models (primarily imports). For MY 1991, all three domestic manufacturers raised their passenger car CAFE from MY 1990 levels. Chrysler, Ford, and GM passenger car CAFEs rose 0.1, 1.4, and 0.1 mpg, respectively, above the MY 1990 CAFE level. Overall, the three domestic manufacturers' combined CAFE increased by 0.5 mpg.

TABLE II-1.—PASSENGER CAR FUEL ECONOMY PERFORMANCE BY MANUFACTURER¹ MODEL YEARS 1990 AND 1991

Manufacturer	Model year cfe (MPG)	
	1990	1991
Domestic:		
Chrysler.....	27.4	27.5
Ford.....	26.3	27.7
GM.....	27.1	27.2
Sales weighted average (domestic).....	26.9	27.4
Imported:		
BMW.....	22.2	23.2
Chrysler imports.....	28.9	28.8
Daihatsu.....	41.0	43.4
Ford imports.....	32.4	34.0
GM imports.....	32.1	31.8

TABLE II-1.—PASSENGER CAR FUEL ECONOMY PERFORMANCE BY MANUFACTURER¹ MODEL YEARS 1990 AND 1991—Continued

Manufacturer	Model year cfe (MPG)	
	1990	1991
Honda.....	30.8	30.4
Hyundai.....	33.3	32.9
Isuzu.....	33.5	34.2
Mazda.....	30.2	30.1
Mercedes-Benz.....	21.4	22.4
Mitsubishi.....	30.4	30.3
Nissan.....	28.5	28.9
Peugeot.....	25.1	25.9
Porsche.....	21.7	21.1
Sterling.....	24.9	25.2
Subaru.....	27.8	28.2
Suzuki.....	46.5	43.2
Toyota.....	30.8	30.6
Volvo.....	25.1	25.3
VW.....	29.1	29.7
Yugo.....	34.0	34.8
Sales weighted average (imported).....	29.8	29.8
Total fleet average.....	28.0	28.3
Fuel economy standards.....	27.5	27.5

¹ Manufacturers of fewer than 10,000 passenger cars annually that have requested alternative fuel economy standards are not listed.

NOTE: Some MY 1990 CAFE values differ from those used in the Fifteenth Annual Report to the Congress due to the use of final EPA calculations.

TABLE II-2.—LIGHT TRUCK FUEL ECONOMY PERFORMANCE BY MANUFACTURER MODEL YEARS 1990 AND 1991

	Two-wheel drive		Four-wheel drive		Combined ¹	
	1990	1991	1990	1991	1990	1991
Domestic:						
Chrysler.....					21.5	21.0
Ford.....					20.0	20.4
GM.....	20.0		18.6			21.3
PAS.....				17.8		
UMC.....	20.2	18.5				
Sales weighted average (domestic).....	20.0	18.5	18.6	17.8	20.2	20.9
Imported:						
Chrysler imports.....					17.6	21.7
Daihatsu.....			27.3	26.9		
Isuzu.....	25.5	22.7	19.6	19.6		
Mazda.....					24.0	23.9
Mitsubishi.....	24.5	24.8	20.0	20.0		
Nissan.....					25.3	24.7
Range Rover.....			16.3	16.3		
Subaru.....			28.9	29.1		
Suzuki.....					32.6	29.9
Toyota.....	24.1	24.3	20.4	20.4		
VW.....					20.8	20.8
Sales weighted average (imported).....	24.5	23.9	20.7	20.5	23.0	23.0
Total fleet average.....	20.6	23.9	19.4	20.5	20.7	21.3
Fuel economy standard.....	20.5	20.7	19.0	19.1	20.0	20.2

¹ In MYs 1990 and 1991, manufacturers could comply with the two-wheel and four-wheel drive standards or could combine their two-wheel and four-wheel drive trucks and comply with the combined standards.

NOTE: Some MY 1990 CAFE values differ from those used in the Fifteenth Annual Report to the Congress due to the use of final EPA calculations.

The average CAFE for imported passenger cars did not change in MY 1991 from the MY 1990 CAFE level. Import CAFE was 29.8 mpg in MY 1991, the same level as MY 1990. Nine of the 21 import fleets decreased in CAFE between MYs 1990 and 1991. And six of

the 10 Asian importers experienced declining values. Figure II-1 illustrates the changes in total new passenger car fleet CAFE from MY 1978 to MY 1991. For MY 1991, domestic manufacturer CAFE was the closest it has ever been

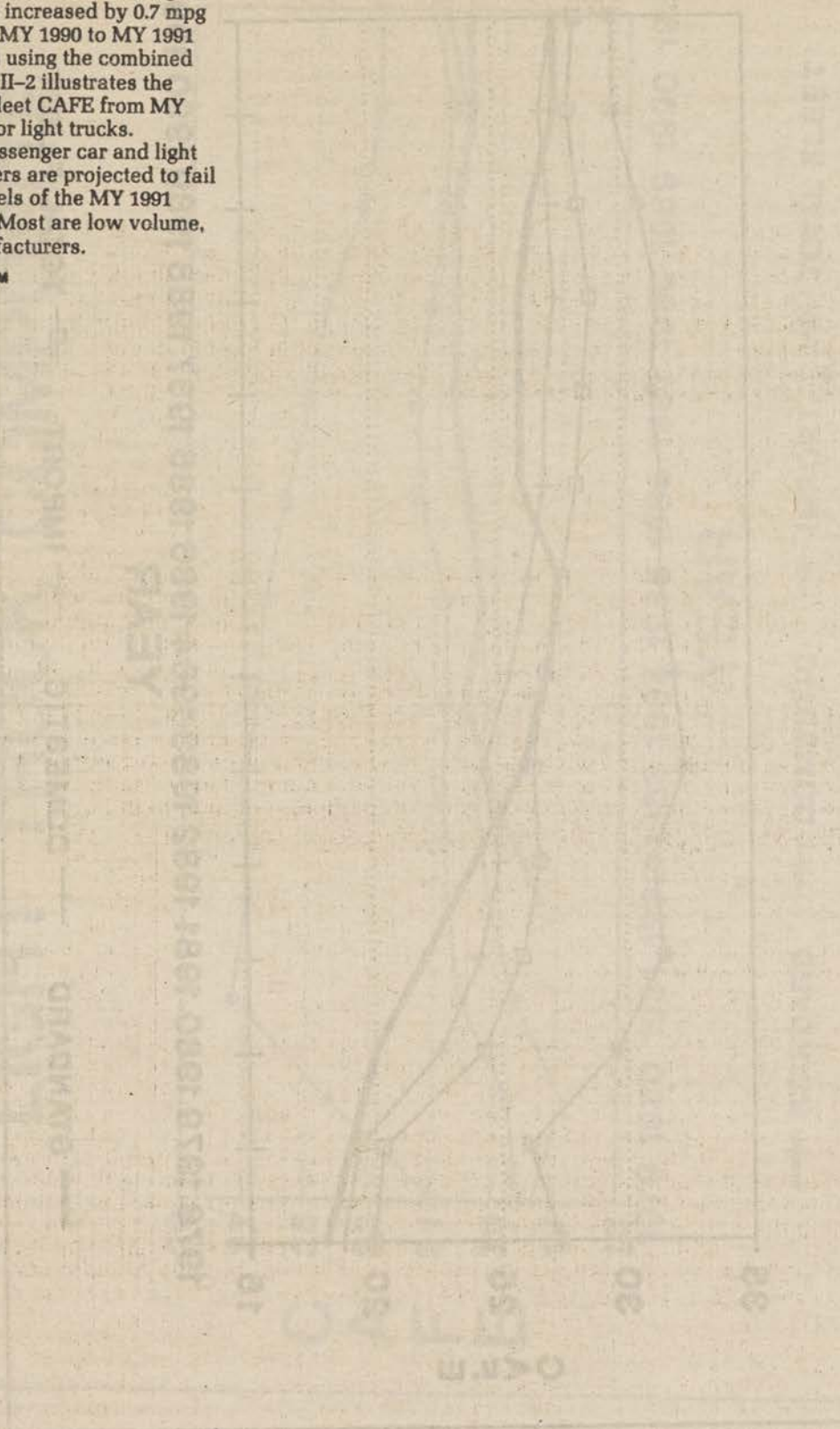
to import manufacturer CAFE—differing by only 2.4 mpg.

CAFE levels for imported light truck manufacturers decreased by 0.6 mpg for manufacturers using the two-wheel drive standard, 0.2 mpg for manufacturers using the four-wheel

drive standard, and did not change for manufacturers using the combined standard. The domestic and total light truck fleet CAFEs increased by 0.7 mpg and 0.6 mpg from MY 1990 to MY 1991 for manufacturers using the combined standards. Figure II-2 illustrates the progress in total fleet CAFE from MY 1979 to MY 1991 for light trucks.

A number of passenger car and light truck manufacturers are projected to fail to achieve the levels of the MY 1991 CAFE standards. Most are low volume, limited line manufacturers.

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CAFE PERFORMANCE PASSENGER CARS

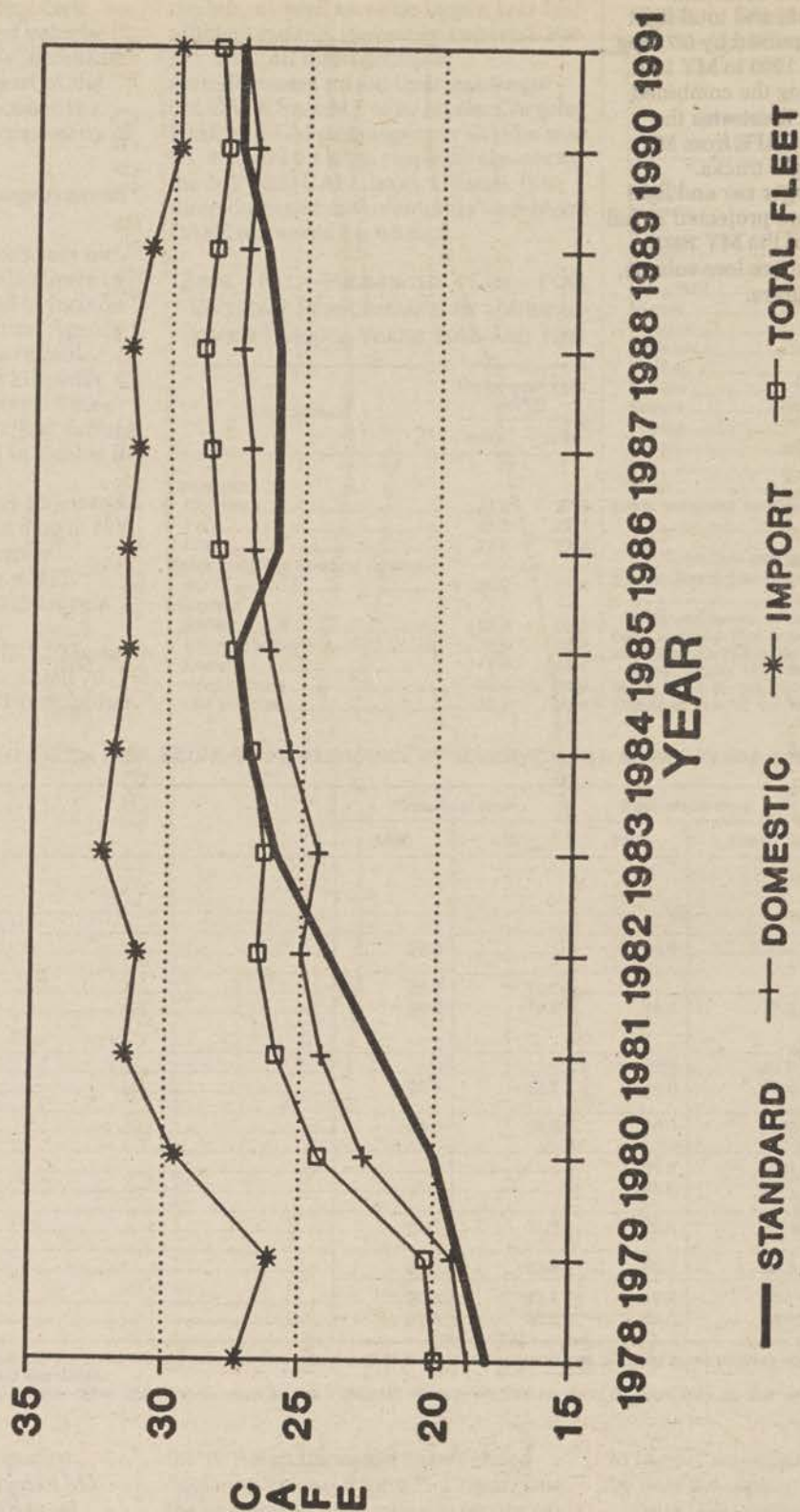


FIGURE II-1

CAFE PERFORMANCE LIGHT TRUCK COMPOSITE

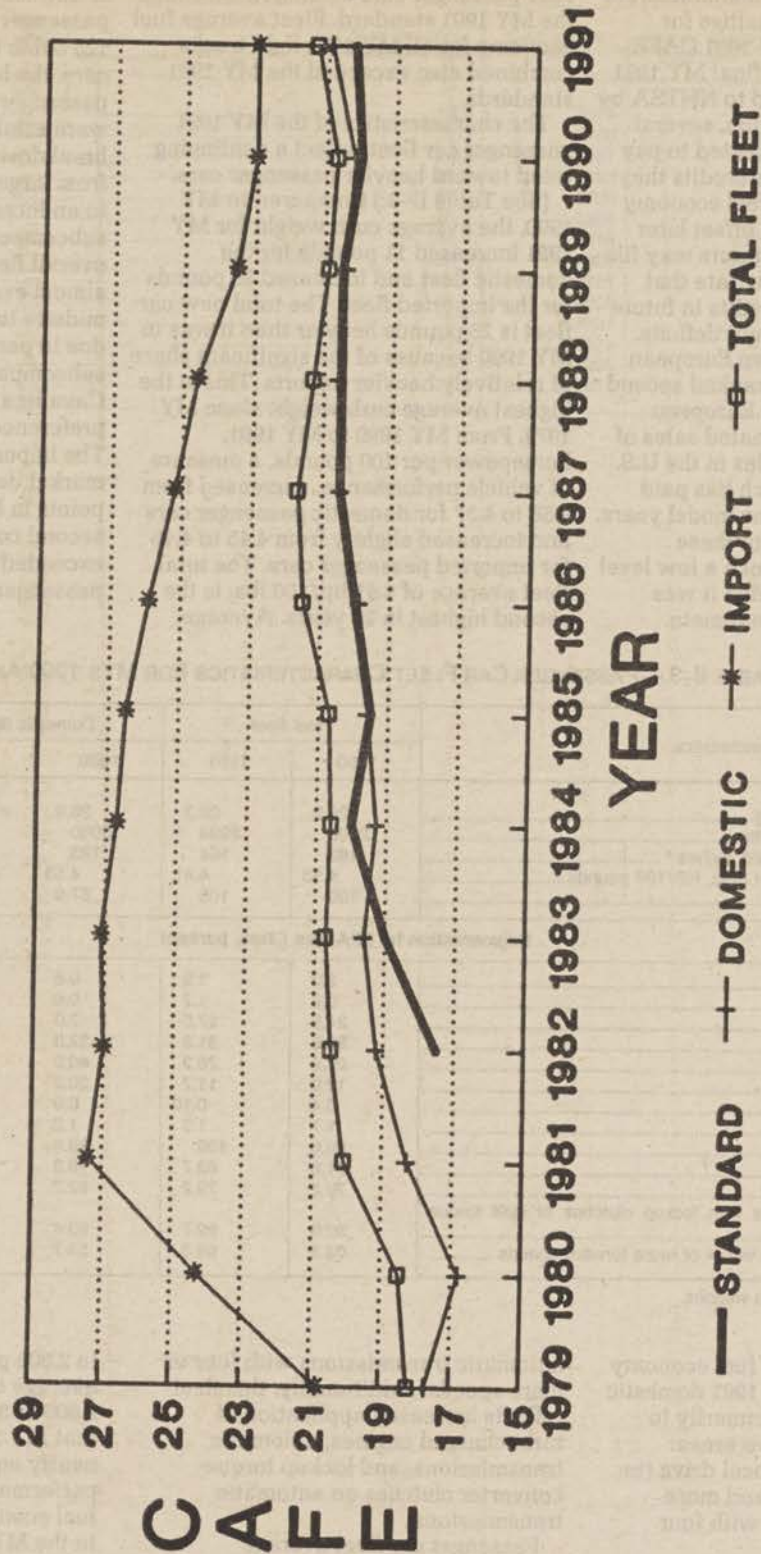


FIGURE II-2

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However, NHTSA is not yet able to determine which of these manufacturers may be liable for civil penalties for noncompliance. Some MY 1991 CAFE values may change when final MY 1991 CAFE figures are provided to NHTSA by EPA, in mid-1992. In addition, several manufacturers are not expected to pay civil penalties because the credits they earned by exceeding the fuel economy standards in earlier years offset later shortfalls. Other manufacturers may file carryback plans to demonstrate that they anticipate earning credits in future model years to offset current deficits.

Peugeot and Sterling, two European manufacturers that were ranked second and eighth by sales in the European market in MY 1990, terminated sales of their passenger automobiles in the U.S. market after MY 1991. Each has paid CAFE penalties in previous model years. The U.S. market for each of these companies had reached such a low level that they apparently decided it was economically infeasible to remain.

Fleet average fuel economy for all MY 1991 passenger cars combined exceeded the MY 1991 standard. Fleet average fuel economy for all MY 1991 light trucks combined also exceeded the MY 1991 standards.

The characteristics of the MY 1991 passenger car fleet reflect a continuing trend toward heavier passenger cars. (See Table II-3.) Compared to MY 1990, the average curb weight for MY 1991 increased 11 pounds for the domestic fleet and increased 35 pounds for the imported fleet. The total new car fleet is 26 pounds heavier than it was in MY 1990 because of the significant share of relatively heavier imports. This is the highest average curb weight since MY 1979. From MY 1990 to MY 1991, horsepower per 100 pounds, a measure of vehicle performance, decreased from 4.58 to 4.37 for domestic passenger cars and increased slightly from 4.45 to 4.46 for imported passenger cars. The total fleet average of 4.41 hp/100 lbs. is the second highest in 20 years. Average

engine displacement decreased from 193 to 191 cubic inches for domestic passenger cars but increased from 123 to 125 cubic inches for imported passenger cars, the highest value for imported passenger cars since CAFE standards were established. The size class breakdown shows a slight trend away from large and compact passenger cars to an increase in minicompact and subcompact passenger cars for the overall fleet. The domestic fleet shift is almost exclusively from compact and midsize to subcompact passenger cars, due in part to an increase in sales of subcompact class 2-door Chevrolet Cavaliers and Pontiac Sunbirds in preference to compact 4-door models. The imported share of the passenger car market decreased by 1.2 percentage points in MY 1991. However, for the second consecutive year, imports exceeded 40 percent of the new passenger car fleet.

TABLE II-3.—PASSENGER CAR FLEET CHARACTERISTICS FOR MYs 1990 AND 1991

Characteristics	Total fleet		Domestic fleet		Imported fleet	
	1990	1991	1990	1991	1990	1991
Fleet average fuel economy, mpg.....	28.0	28.3	26.9	27.4	29.8	29.8
Fleet average curb weight, pounds.....	2908	2934	3060	3071	2700	2735
Fleet average engine displacement, inches ³	163	164	193	191	123	125
Fleet average horsepower/weight ratio, HP/100 pounds.....	4.53	4.41	4.58	4.37	4.45	4.46
% of Fleet.....	100	100	57.9	59.1	42.1	40.9
Segmentation by EPA Size Class, percent						
Two-seater.....	2.0	1.9	0.6	0.4	3.8	4.2
Minicompact.....	0.2	1.2	0.0	0.0	0.5	3.0
Subcompact ¹	24.9	27.5	7.0	17.2	49.6	42.4
Compact ¹	33.8	31.3	32.3	26.2	35.8	38.8
Mid-size ¹	27.2	26.3	40.0	37.1	9.5	10.8
Large ¹	12.0	11.7	20.2	19.2	0.7	0.9
Percent diesel engines.....	0.4	0.10	0.0	0.0	0.10	0.30
Percent turbocharged engines.....	1.7	1.5	1.2	0.2	2.4	3.4
Percent injection.....	98.6	100	99.4	100	97.5	99.9
Percent front-wheel drive.....	81.6	83.7	79.3	83.3	84.7	84.3
Percent automatic transmissions.....	79.2	79.2	92.7	91.0	60.7	63.1
Percent automatic transmissions with lockup clutches or split torque features.....	92.0	92.7	93.4	92.6	89.0	89.9
Percent automatic transmissions with 4 or more forward speeds.....	63.8	69.3	59.7	62.5	72.5	83.6

¹ Includes associated station wagons.

The 0.5 mpg passenger fuel economy improvement for the MY 1991 domestic fleet may be attributed primarily to technology changes in two areas: increased use of front-wheel drive (to reduce driveline losses) and more automatic transmissions with four speeds.

The unchanged CAFE value for the MY 1991 imported passenger car fleet may be attributed to the offsetting effects of slightly increased weight and greater use of fuel injection and

automatic transmissions with four or more speeds. Additionally, this fleet reflects increased application of turbocharged engines, automatic transmissions, and lockup torque converter clutches on automatic transmissions.

Passenger car fleet average characteristics have changed significantly since MY 1978. After substantial initial weight loss (from MY 1978 to MY 1982, average passenger car fleet curb weight decreased from 3,349

to 2,806 pounds), passenger car fleet average curb weight has stabilized at 2,800 to 3,000 pounds. Table II-4 shows that MY 1990 passenger car fleet has nearly equal interior volume, higher performance, and exceeds 40 percent fuel economy improvement as compared to the MY 1978 fleet. (See Figure II-3.) The passenger car fleet in MY 1991 averaged the second highest horsepower-to-weight ratio recorded in any year since 1955, the earliest year for which the agency has data.

TABLE II-4.—NEW PASSENGER CAR FLEET AVERAGE CHARACTERISTICS MODEL YEARS 1978-1991

Model year	Fuel economy standard, mpg	Curb weight pounds	Interior space cubic feet	Engine size cubic inches	Horsepower/weight hp/100 pounds
1978	19.9	3349	112	260	3.68
1979	20.3	3180	110	238	3.72
1980	24.3	2867	105	187	3.51
1981	25.9	2863	108	182	3.43
1982	26.6	2806	107	173	3.47
1983	26.4	2908	109	182	3.57
1984	26.9	2878	108	178	3.66
1985	27.6	2866	108	177	3.84
1986	28.2	2821	106	169	3.89
1987	28.5	2805	109	162	3.98
1988	28.8	2831	107	161	4.11
1989	28.4	2879	109	163	4.24
1990	28.0	2908	108	163	4.53
1991	28.3	2934	108	164	4.42

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PASSENGER CAR FLEET AVERAGE CHARACTERISTICS MODEL YEARS 1978-1991

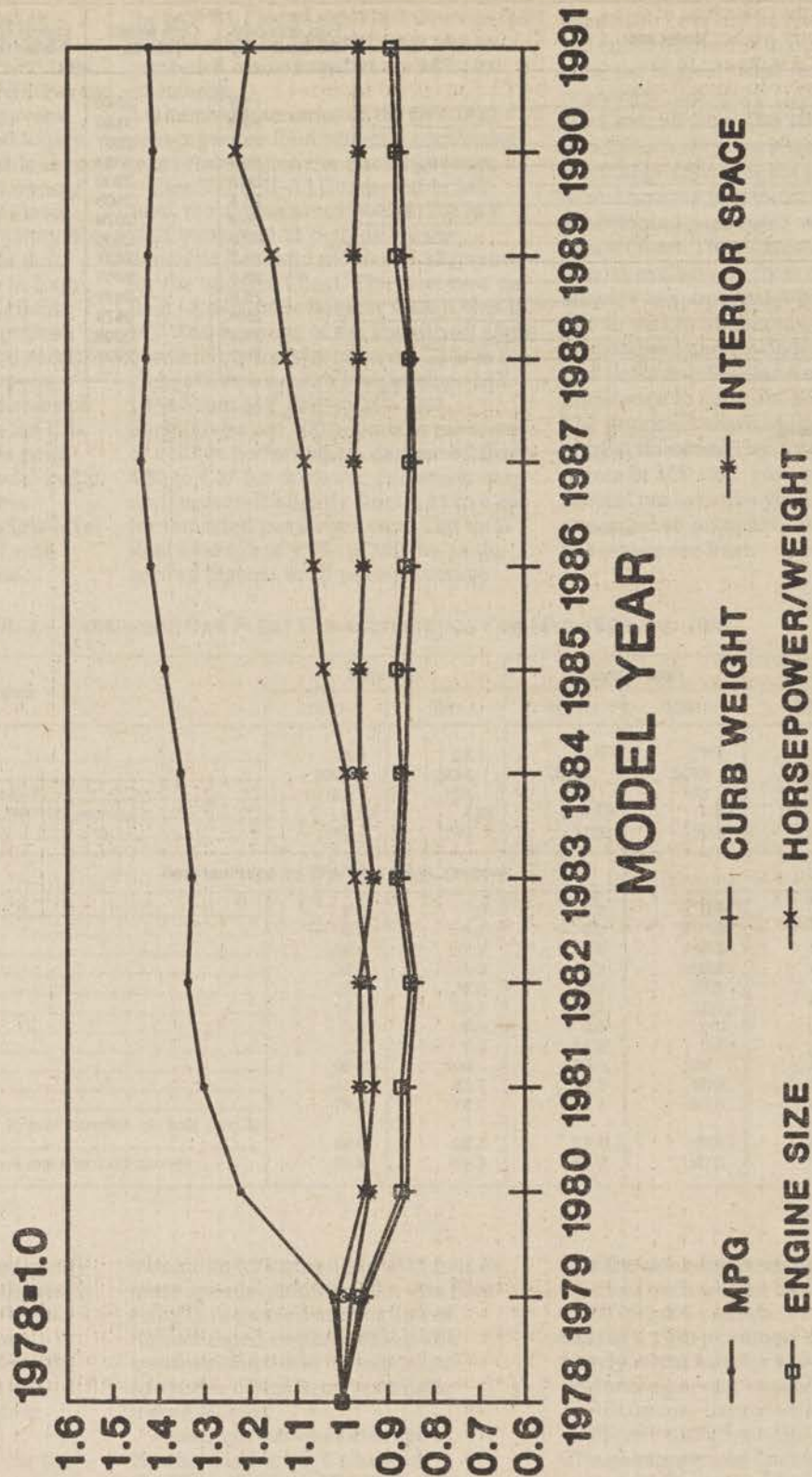


FIGURE II-3

The characteristics of the MY 1991 light truck fleet (See Table II-5) show an average test weight reduction of 94 pounds and slightly higher performance as reflected by the increase in the average horsepower-to-weight ratio. Increased popularity of small pickups

and special purpose vehicles contributed to the 0.6 mpg fleet fuel economy improvement for MY 1991 as did the one percentage point increase in the use of fuel injection and the 3.6 percentage point increase in the use of lockup converter clutches on automatic

transmissions. Diesel engine usage declined in light trucks to 0.1 percent in MY 1991 from 0.2 percent in 1990. The import share of the MY 1991 light truck fleet increased to 20.2 percent, 1.1 percent higher than MY 1990.

TABLE II-5—LIGHT TRUCK FLEET CHARACTERISTICS FOR MYS 1990 AND 1991

Characteristics	Total fleet		Domestic fleet		Imported fleet	
	1990	1991	1990	1991	1990	1991
Fleet average fuel economy, mpg.....	20.7	21.3	20.2	20.9	23.0	23.0
Fleet average equivalent test weight, pounds.....	4110	4016	4217	4112	3652	3641
Fleet average engine displacement, inches ³	237	229	255	247	159	158
Fleet average horsepower/weight ratio, HP/100 pounds.....	3.71	3.76	3.78	3.83	3.43	3.51
Percent of fleet.....	100	100	80.9	79.8	19.1	20.2
SEGMENTATION BY TYPE, PERCENT						
Passenger van compact.....	23.0	16.8	26.4	16.8	8.4	16.9
Large.....	0.6	2.7	0.8	3.4		
Cargo van compact.....	2.1	1.1	2.6	1.4	0.1	
Large.....	7.1	2.9	8.7	3.6		
Small pickup.....	19.5	26.0	11.7	18.8	53.2	54.3
Large pickup.....	28.4	21.3	33.8	26.6	5.2	0.1
Special purpose.....	18.7	28.4	15.7	28.5	31.8	28.1
Cab chassis.....	0.5	0.9	0.3	1.0	1.3	0.7
Percent diesel engines.....	0.2	0.1	0.2	0.2		
Percent fuel injection.....	97.2	98.4	100	99.9	84.9	92.7
Percent automatic transmissions.....	72.2	68.8	80.4	75.6	36.7	41.8
Percent automatic transmissions with lockup clutches.....	93.5	97.1	75.7	98.4	87.1	87.9
Percent automatic transmissions with 4 forward speeds.....	83.0	88.6	65.6	87.8	96.5	94.1
Percent four wheel drive.....	31.5	34.7	27.6	33.2	48.0	40.8

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CAFE PERFORMANCE TOTAL FLEET

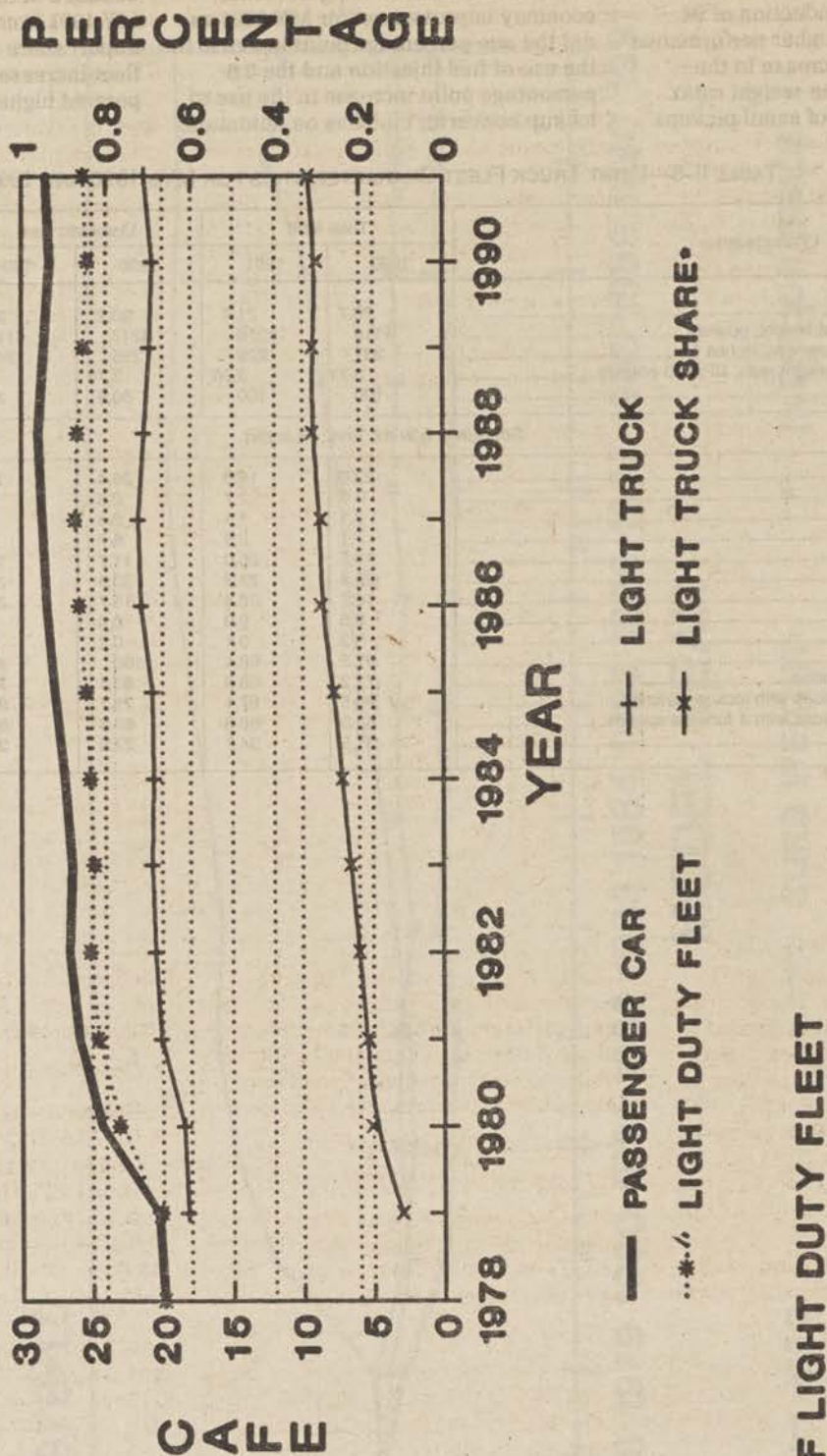


FIGURE II-4

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During MYs 1980 through 1991, CAFE levels for light trucks in the 0-8500 lbs. gross vehicle weight (GVW) class have increased, beginning at 18.5 mpg in MY 1980 and reaching 21.7 mpg in MY 1987 before dropping to lower values in MYs 1988 through MY 1991, as average weight, engine size, and performance increased. During these years, light truck production has increased from 1.9 million in MY 1980 to 4.1 million in MY 1991. Light trucks comprised nearly a third of the total fleet production in MY 1991, almost double their share in MY 1980. Figure II-4 illustrates that light duty fleet (passenger cars and light trucks together) CAFE steadily

increased to MY 1987, but subsequently has been below the MY 1987 level. Light truck CAFE also declined, but passenger car CAFE has remained relatively constant for MYs 1987-1991, showing the important influence of light trucks in the light duty fleet.

Domestic and imported passenger car fleet average fuel economies have improved since MY 1978. For MY 1991, the domestic passenger car fleet climbed to 27.4 mpg. This reflects an increase of 8.7 mpg since MY 1978, and the highest level since MY 1988. (See Table II-6). The domestic passenger car fleet was also the closest it has ever been to the imported passenger car fleet—differing

by only 2.4 mpg. These increased fuel economy levels are attributed to domestic auto manufacturers' improvements in engine and transmission technology (See section IV: Use of Advance Technology). For MY 1991, the imported passenger car fleet CAFE maintained the same level as MY 1990. In MYs 1990 and 1991, the imported passenger car fleet failed to achieve 30.0 mpg for the first time since MY 1980. These declines in imported passenger car fleets for both MYs 1990 and 1991 can be attributed to the shifts to larger, heavier, and more powerful models.

TABLE II-6.—DOMESTIC AND IMPORTED PASSENGER CAR AND LIGHT TRUCK FUEL ECONOMY AVERAGES FOR MODEL YEARS 1978-1991 (IN MPG)

Model year	Domestic			Imported			Total fleet
	Car	Light truck	Combined	Car	Light truck	Combined	
1978	18.7			27.3			
1979	19.3	17.7	19.1	26.1	20.8	25.5	20.1
1980	22.6	16.8	21.4	29.6	24.3	28.5	23.1
1981	24.2	18.3	22.9	31.5	27.4	30.7	24.6
1982	25.0	19.2	23.5	31.1	27.0	30.4	25.1
1983	24.4	19.6	23.0	32.4	27.1	31.5	24.8
1984	25.5	19.3	23.6	32.0	26.7	30.6	25.1
1985	26.3	19.6	24.0	31.5	26.5	30.3	25.4
1986	26.9	19.9	24.4	31.6	25.9	29.8	25.9
1987	27.0	20.5	24.6	31.2	25.2	29.6	26.2
1988	27.4	20.6	24.5	31.5	24.6	30.0	26.0
1989	27.2	20.4	24.2	30.8	23.5	29.2	25.6
1990	26.9	20.2	23.9	29.8	23.0	28.4	25.3
1991	27.4	20.9	24.4	29.8	23.0	28.2	25.6

Domestic and imported light truck fleet average fuel economies have improved since MY 1979. The domestic manufacturers continued to dominate the light truck market. Domestic light trucks comprised nearly 80 percent of the total light truck fleet. For MY 1991, the domestic light truck fleet achieved its highest fuel economy, 20.9 mpg. This is also the closest it has ever been to the imported light truck fleet—differing by only 2.1 mpg.

Domestic manufacturers introduced several new fuel-efficient light trucks in MY 1991 that contributed to the improved fuel economy level. The imported light truck fleet fuel economy remained constant at the MY 1990 level of 23.0 mpg, the lowest level it had been since MY 1979.

For MY 1991, the domestic combined passenger car and light truck fleet fuel economy level was the closest it has ever been to the imported combined fleet, with a fuel economy value of 24.4 mpg. This represents the third highest level for domestic manufacturers since MY 1979 and the lowest for import manufacturers since MY 1979.

Overall, the gap between the average CAFEs of the import and domestic manufacturers is shrinking as domestic manufacturers introduce more fuel-efficient passenger cars and light trucks while the import manufacturers move to larger, higher performance vehicles.

Section III: 1991 Activities

A. Passenger Car CAFE Standards

The following synopsis describes the litigation cases, challenging NHTSA actions under the CAFE program, that were decided or pending in 1991.

1. Cases Decided

Mercedes Benz of North America, Inc. v. NHTSA, D.C. Cir., No. 89-1762

On July 12, 1991, the D.C. Circuit unanimously affirmed a November 22, 1989, decision by NHTSA's Acting Administrator which found Mercedes liable for \$5.5 million in civil penalties for its failure to comply with the MY 1985 CAFE standard.

Maserati v. NHTSA, D.C. Cir., Nos. 90-1388 and 90-1389

On December 27, 1990, this case was voluntarily dismissed after Maserati

agreed to pay a compromise civil penalty of \$120,000 for its failure to comply with CAFE standards in MYs 1982, 1983, 1986, 1987, 1989, and 1990.

2. Case Pending

Competitive Enterprise Institute (CEI) v. NHTSA, D.C. Cir., Nos. 98-1422

On May 21, 1991, oral argument was held on CEI's challenge to NHTSA's decision to terminate a rulemaking that had proposed to reduce the MY 1990 CAFE standard.

B. Light Truck CAFE Standards

NHTSA published a final rule establishing MYs 1993 and 1994 light truck fuel economy standards on April 4, 1991 (56 FR 13773). The agency set a combined standard of 20.4 mpg for MY 1993 and 20.5 mpg for MY 1994, with no optional separate standards for two-wheel and four-wheel fleets for either model year.

In past light truck CAFE rulemakings, the agency has provided manufacturers with the option of dividing their light trucks into two fleets, a two-wheel drive (2WD) fleet and a four-wheel drive

(4DW) fleet, each meeting a separate standard. However, the agency eliminated separate alternative standards beginning with MY 1992. Currently, most domestic and import manufacturers are reporting their CAFE compliance in terms of a single CAFE value for their entire light truck fleets.

In the final rule for MY 1993 and 1994 light trucks, the agency determined that Ford was the "least capable" manufacturer for MY 1993 with a combined fuel economy capability of 20.6 mpg, and GM is the least capable for MY 1994 with a combined fuel economy capability of 20.7 mpg.

The agency concluded, upon balancing the relevant statutory factors, that the relatively small and uncertain energy savings that would be associated with setting a standard above Ford or GM's capability would not justify the economic harm to the companies and the economy as a whole. The agency projected that Ford could achieve a combined fuel economy level no higher than 20.6 mpg for MY 1993 and 20.9 mpg for MY 1994 and GM no higher than 20.7 mpg for MYs 1993 and 1994. A 20.9 mpg optimistic projection for MY 1993 by Ford could drop to as low as 20.4 mpg, if all potential risks are realized.

The 20.7 mpg figure projected by GM was also subject to risks, a potential loss of 0.4 mpg due to mix-shift risk resulting from lower gasoline prices and shifts towards larger trucks and engines for MYs 1993 and 1994.

The agency selected 20.4 mpg for MY 1993 and 20.5 mpg for MY 1994 as the final combined standards to balance the potentially serious adverse economic consequences associated with the realization of the above market and technological risks against Ford and GM's opportunities as the "least capable" manufacturers with a substantial share of sales. Since Ford and GM produce more than 60 percent of all light trucks subject to the fuel economy standards, their capabilities have a significant effect on the level of the industry's capability and, therefore, on the level of the standards.

The agency published a final rule denying GM's petition dated May 4, 1990, seeking reconsideration of the agency's decision to discontinue separate 2WD and 4WD fuel economy standards in setting the MY 1992 standard (56 FR 15839; April 18, 1991). The agency concluded that setting separate CAFE standards for different classes of light trucks is a discretionary

exercise of the agency's authority. The agency also determined that the issuance of optional separate standards for MY 1992 would be inconsistent with the goal of encouraging fuel economy improvement by the least capable manufacturer with a substantial market share.

C. Low Volume Petitions

Section 502(c) of the Act provides that a low income manufacturer of passenger cars may be exempted from the generally applicable passenger car fuel economy standards if these standards are more stringent than the maximum feasible average fuel economy for that manufacturer and if NHTSA establishes an alternative standard for that manufacturer at its maximum feasible level. Under the Act, a low volume manufacturer is one that manufactured fewer than 10,000 passenger cars worldwide, in the model year for which the exemption is sought (the affected model year) and in the second model year preceding that model year.

The agency acted on a number of petitions during 1991, as summarized in Table III-1.

TABLE III-1.—ACTIVE PETITIONS FOR ALTERNATIVE FUEL ECONOMY STANDARDS

Petitioners	Model year(s)	Action	FEDERAL REGISTER notice
ASC Inc	1989, 1990	Denied—ineligible ¹	56 FR 35884
Dutcher	1989, 1991	Denied—not timely	56 FR 3517
	1992	Final rule—17.0 mpg	56 FR 20362
	1993–1995	Final rule—17.0 mpg	56 FR 37478
Ferrari	1986	Final rule 16.1 mpg	56 FR 31459
	1988–1991	Denied—ineligible ²	56 FR 31459
Maserati	1992–1995	Proposed denial—ineligible ³	56 FR 36193
PAS, Inc	1989	Denied—ineligible ¹	56 FR 35884
Shelby	1987–1989	Denied—ineligible ¹	56 FR 35884

¹ The passenger automobiles manufactured by these three companies each have two manufacturers, a major, i.e., high volume manufacturer, GM or Chrysler, as well as a low volume manufacturer. The agency concluded that it would be inconsistent with the statutory scheme to exempt these companies from the generally applicable average fuel economy standards. By granting the manufacturers' petitions, a precedent would be established by which the major manufacturers could easily transfer significant number of low fuel economy vehicles out of their fleets into fleets exempt from the industrywide standard.

² This decision reflects a change in the agency's approach to determining eligibility for low volume exemptions when there are multiple manufacturers within a control relationship. Furthermore, the combined worldwide production of the firms within the control relationship that imported vehicles into the United States (Ferrari and Alfa Romeo) exceeds the 10,000 vehicle limitation on eligibility.

³ Maserati manufactured more than 10,000 passenger automobiles worldwide in the second model year preceding the model years for which the application for exemption was made and in those model years for which the exemption was sought.

D. Carryback Plans

Section 502(1) of the Act allows an automobile manufacturer to earn fuel economy credits during any model year in which the manufacturer's fleet exceeds the established CAFE standard. The amount of credits a manufacturer earns is determined by multiplying the number of tenths of a mile per gallon by which the average fuel economy of the manufacturer's fleet in the model year exceeds the standard by the total

number of vehicles in the manufacturer's fleet for the model year.

Already earned fuel economy credits are carried forward by the agency (with affected manufacturers given an opportunity to comment on the agency's allocation of credits) and distributed to any of the three succeeding model years in which the manufacturer's fleet falls below the CAFE standard. For example, credits earned in MY 1986 have been used to offset deficiencies in MY 1987, 1988, and/or 1989. A manufacturer also

may submit to the agency a carryback plan, which demonstrates that it will earn sufficient credits within the following three model years which can be allocated to meet the CAFE standard in the model year(s) involved.

On October 24, 1990, GM submitted a carryback plan for MY 1989 light truck CAFE compliance. On December 31, 1990, the agency approved GM's carryback plan. That plan allowed GM to apply credits earned in MY 1991 to offset its shortfall for MY 1989.

On May 1, 1991, GM submitted a carryback plan for its MY 1990 light truck CAFE. GM's carryback plan was approved on September 9, 1991. GM intends to apply credits earned by its MY 1991 domestic light truck fleet, which includes five new fuel efficient models, to offset a shortfall for MY 1990. GM has generated enough credits from its MY 1991 domestic light truck fleet to offset potential penalties for both model years 1989 and 1990.

E. Enforcement

Section 508(b)(1) of the Act imposes a civil penalty of \$5 for each tenth of a mpg by which the manufacturer's CAFE level falls short of the standard, multiplied by the total number of passenger automobiles or light trucks produced by the manufacturer in that model year. Credits that were earned for exceeding the standard in any on the three model years immediately prior to or subsequent to the model years in question can be used to offset the penalty.

With completion by EPA of final CAFE computations for MY 1990 for most passenger car fleets, the agency initiated appropriate enforcement actions for manufacturers that did not meet the CAFE standard. Table III-2 shows those manufacturers which paid CAFE penalties in 1991.

Table III-2

CAFE fines paid in 1991			
Model year	Manufacturer	Amount fined	Date paid
(¹)	Maserati	\$120,000	1/91
1989	Range Rover	778,140	5/91
1989	Jaguar	6,311,895	7/91
1990	Range Rover	656,370	5/91
1990	Volvo	12,244,440	6/91
1990	BMW	14,878,160	7/91
1990	Porsche	2,033,770	7/91
1990	Mercedes-Benz	17,556,105	9/91
	Total	54,578,880	

¹ Modified penalty for MYs 1982, 1983, 1986, 1987, 1989, and 1990.

On February 15, 1991, NHTSA filed an administrative complaint alleging that Chrysler Corporation (Chrysler) violated the domestic light trucks CAFE standard for MY 1984 and, therefore, was liable for a civil penalty of \$1,371,420, after considering available credits. Chrysler acknowledges that its domestic light trucks failed to achieve the CAFE standard for MY 1984, but denies that it violated the law. Chrysler also claims that it is not liable for payment of any civil penalties because CAFE credits earned by American Motors Corporation in model years that preceded its acquisition in 1987 by Chrysler are

available to fully offset its MY 1984 shortfall. On July 1, 1991, both parties, NHTSA and Chrysler, filed simultaneous cross-motions for summary judgment. On August 7, 1991, briefing on the motions was completed. On January 8, 1992, the Administrative Law Judge issued an Initial Decision and Order dismissing the complaint because NHTSA has not issued rules pursuant to section 501(8) of the Motor Vehicle Information and Cost Savings Act to determine the extent to which "any predecessor or successor" is included in the term "manufacturer." He concluded that NHTSA could not interpret the extent to which predecessors or successors are included in the term "manufacturer" without conducting rulemaking, but that Chrysler could not claim credits earned by American Motors Corporation except under the terms of a properly adopted rule. He also concluded that the dismissal of the complaint should not bar NHTSA from further action once rulemaking has been accomplished. On January 9, 1992, Complaint Counsel filed a Notice of Intention to Appeal the Initial Decision by the Administrative Law Judge to the NHTSA Administrator. On January 17, 1992, Chrysler also filed a Notice of Intention to Appeal the Initial Decision.

F. Environmental Impact Statement

Under section 102(2)(c) of the National Environmental Protection Act (NEPA), an Environmental Impact Statement (EIS) is required for all major Federal actions significantly affecting the quality of the human environment. In recent years, NHTSA prepared an environmental assessment each time it has established or amended a CAFE standard for cars or light trucks. Each assessment has led to finding of no significant impact.

The agency previously published a notice of intent to prepare a programmatic EIS covering the CAFE program and held a public scoping meeting on December 13, 1990, with the intention of contracting for the EIS in fiscal year (FY) 1992. However, Congress did not approve funding for a programmatic EIS for FY 1992. The President's budget requests \$1.4 million in FY 1993 for a comprehensive study of the environmental aspects of the CAFE Program.

G. National Academy of Sciences (NAS) Study

Under a grant from NHTSA, the National Academy of Sciences (NAS) is studying the extent to which new passenger car and light truck fuel economies can be improved over the

next decade, while still meeting environmental and safety needs.

NAS is expected to provide, on a "best judgment" basis, estimates by vehicle size class of fuel economy practically achievable in the next decade by automotive manufacturers with major assembly facilities in the U.S. and Canada, taking into consideration factors such as technological feasibility, provisions of the Clean Air Act Amendments of 1990, recent regulatory and legislative requirements for improvements in vehicle safety and emissions control, and the viability of the domestic automotive industry in the U.S. market.

The study is also expected to result in the identification of principal barriers in the U.S. that constrain the rate at which technologies enhancing fuel economy can be introduced and sustained in the U.S. marketplace. It will include estimates of the cost per vehicle to the consumer attributable to higher fuel economy and the incremental cost to the automotive industry of producing higher fuel economy vehicles.

A committee of 16 members was appointed by NAS to carry out this study. The committee slate is balanced between science and technology experts and those from other disciplinary areas such as finance, economics, standards/regulations, and behavioral sciences.

One of the primary methods of data gathering by the committee is in structured presentations from domestic and foreign automobile manufacturers, suppliers, and other qualified organizations closely involved with, but functioning outside of, the automotive industry. As part of this effort, a workshop was held July 8-12, 1991, in which numerous groups spoke to the committee.

When completed in early 1992, the study will provide nonpartisan information for use in future deliberations by the Administration and the Congress.

Section IV: Use of Advanced Technology

This section fulfills the statutory requirement of section 305 of title III of the Department of Energy Act of 1978 (Pub. L. 95-238), which directs the Secretary of Transportation to submit an annual report to Congress on the use of advanced technologies by the automotive industry to improve motor vehicle fuel economy. This report focuses on the introduction of new models, the application of materials to save weight, and the advances in electronic technology which improved fuel economy in MY 1991.

A. New Models

The domestic automakers introduced several all-new cars as well as updates of previous passenger cars. Ford introduced the Mercury Capri 2+2 convertible produced in Australia and based on the previous Mazda 323 platform. The front-wheel drive convertible's average fuel economy level is 30 mpg.

The Saturn, produced by General Motors Corporation's new Saturn Corporation subsidiary, was introduced after seven years of planning and development. In addition to its distinction as the first new car brand in America in many years, Saturn is the product of the first new U.S.-based automaker in 33 years. The Saturn has a hybrid plastic/steel passenger car body produced in Spring Hill, Tennessee. It is powered by an all-aluminum engine, and it has a stainless-steel exhaust system. Both manual and automatic transmissions are produced at the Spring Hill plant, on the same production line. The Saturn plant uses many ideas from Japanese plants relating to quality control and inventory management. These new cars have an average fuel economy of nearly 33 mpg.

New redesigned, aerodynamic full size Chevrolet Caprice station wagons and sedans were introduced for the 1991 model year along with companion Buick and Oldsmobile wagons. These wagons, were the largest GM passenger cars offered in the 1991 model year. As a group, these models averaged 0.4 mpg better fuel economy than their MY 1990 counterparts. The front-wheel drive large Buick Park Avenue and Oldsmobile Ninety Eight sedans were restyled for MY 1991 and featured better aerodynamics and four-speed automatic transmissions with electronic controls. Chevrolet's Geo line added a new subcompact Storm hatchback and a two-wheel drive version of the Tracker compact utility (available in convertible body style only).

A new product in Chrysler Corporation's 1991 lineup was Dodge Division's all-new, imported Stealth sports car. This 2+2 sports car is available with technologies such as four-wheel drive and four-wheel steering. Also new to Chrysler's 1991 model year were the midsize Dodge Spirit R/T sports sedan with a dual overhead camshaft (DOHC), four-valve-per cylinder, turbocharged engine and low-priced compact Dodge Shadow and Plymouth Sundance America models. The Shadow lineup was further enhanced by an all-new convertible based on the three-door hatchback. Chrysler's only new Eagle-brand entry

was a three-door hatchback version of the Summit derived from the Mitsubishi Mirage.

Automobile importers introduced a variety of new passenger cars and updates of their previous models for MY 1991. Honda's Acura Division launched a 270 hp NSX mid-engine sports car. Unique features of this new Honda are an all-aluminum body and variable valve timing (VVT) on its 3 L V-6 engine. The all-new Acura Legend sedan has a more rounded, European look and a more powerful engine, and the average fuel economy level is slightly higher. Honda introduced an all-new Accord station wagon at its Marysville, Ohio, plant the only place it is produced. Hyundai debuted a new sporty coupe, called "Scoupe", with a single-overhead-cam (SOHC) four-cylinder engine and a average fuel economy of 33.5 mpg.

Nissan Motor Corporation's Infiniti Division introduced a new lower-priced model, the G20 luxury sedan with a 2 L, DOHC, four-valve cylinder engine giving an average fuel economy of 29 mpg. Nissan has completely redesigned the Sentra with more rounded lines and a family resemblance to Stanza and Maxima. These new Sentras average 0.4 mpg higher fuel economy than MY 1990 Sentras. Nissan also introduced a new high-fuel-economy version of the NX coupe that achieves an average fuel economy over 16 mpg and a restyled, higher-powered 240 SX with fuel economy improved by over 1 mpg. Isuzu introduced new versions of the Impulse coupe and Stylus sedan. These models have a rounded, aerodynamic profile and a distinct front end with sloping hoodlines and steeply raked windshields and their average fuel economy increased by 1 mpg.

Mitsubishi introduced the all-new 3000 GT coupe (which is related to Dodge Stealth). Suzuki introduced a new four-door version of the Sidekick utility with four-wheel drive in two trim levels. All Sidekicks are equipped with electronically fuel-injected 1.6 L engines and average over 28 mpg.

In the domestic light truck area, General Motor's Oldsmobile Division introduced the Bravada, an all-new compact four-door sport-utility vehicle (SUV) built on the same platform as the new, four-door Chevrolet S-10 Blazer and S-15 GMC Jimmy.

Ford introduced the Explorer, a compact sport-utility vehicle replacing the Bronco II, appearing for the first time as a four-door model, as well as a two-door. Ford is producing a Mazda-badged version of the Explorer called the Navajo. The Navajo was offered only as a two-door model.

Redesigned versions of Chrysler's top-selling Dodge Caravan, Plymouth Voyager, Chrysler Town and Country compact vans, and all-wheel-drive Caravan and Voyager models, were introduced for the 1991 model year. The Caravan and Voyager offer an electronic four-speed automatic transmission: with the 3.0 L and 3.3 L engines and optional four-wheel antilock braking system (ABS). The Town & Country is a luxury minivan completely restyled to include a quad-seating that converts to a bed. Also it has front-wheel drive equipped with a 3.3 L V-6 multi-point (port) fuel-injection (MFI) engine, 4-speed Ultradrive electronic transmission and a four-wheel antilock braking system. This group of mini-vans averaged 23.5 mpg. The Jeep Grand Wagoneer, a large station wagon, was phased out at the end of the 1991 model year after 29 years of production.

In the import light truck area, the all-new Isuzu Rodeo, Isuzu's third entry in the popular compact sport-utility vehicle category, began production in Lafayette, Indiana. The Rodeo is Isuzu's second product from the new plant, supplementing pickup production. It is a compact sport-utility vehicle with four doors and a steel body. CAMI Automotive Incorporated, GM's joint venture with Japan-based Suzuki Motor Company Ltd., began producing 1991 model four-door four-wheel drive Suzuki Sidekick sport-utility vehicles in Canada along with the Suzuki Swift sedan and Geo Metro and Tracker.

Toyota debuted a longer, wider, redesigned Land Cruiser for the 1991 model year. Toyota also introduced an all new Previa passenger van with an aerodynamic shape and an average fuel economy of over 23 mpg in the two-wheel drive version.

B. Engine Technology

Some manufacturers made significant improvements in engine technology for model year 1991. GM's Chevrolet Lumina, Oldsmobile Cutlass Supreme, and Pontiac Grand Prix offer a DOHC 24-valve 3.4 L engine; it was the highest displacement multivalve V-6 available in MY 1991. GM also offered a larger-displacement 4.9 L V-8 on all 1991 Cadillacs except the Allante and Brougham.

The Imperial was Chrysler's only 1991 model to offer the new 3.8 L MFI V-6 engine. Chrysler's new 2.2L DOHC 16-valve turbocharged/intercooled engine also bowed during the 1991 model year on the Dodge Spirit R/T. It generated the highest specific output (more than 100-hp per liter) ever achieved by a Chrysler production engine.

Ford Motor Company introduced the first mass-produced (SOHC) V-8 engine from a domestic automaker in the 1991 model Lincoln Town Car. This 4.6 L engine replaced the 5.0 L pushrod engine. The 1991 Ford Mustang has a new base engine, a 2.3 L Twin Plug 4-cylinder, that develops 105 hp at 4,600 rpm compared with last year's single-spark-plug engine, which made 88 hp at 4,000 rpm. The Thunderbird base and LX models get a new optional 200 horsepower 5 L V-8 engine for MY 1991. The same powerplant is standard in the Mercury Cougar XR7 and optional in the Cougar LS. The Mercury Capri uses a 1.6 L fuel-injected DOHC 4-cylinder engine that develops 100 hp at 5,750 rpm, and the Capri XR2 has a turbocharged version of the 1.6 L that develops 132 hp at 6,000 rpm.

GM's light truck 5.7 L V-8 engines were improved by incorporating new heavy-duty intake valves, alternator, and powder metal camshaft sprockets. The Astro van received a 4.3 L Vortec V-6 with improved throttle-body injection (TBI) and four-speed automatic overdrive transmission. Changes to the engine's TBI include longer throttle shaft bearing, new throttle return springs, and an improved fuel mixture distribution for better starts, and performance.

C. Electronics

Application of electronic components that increase fuel economy in vehicles continues to rise. Most notable are those in the transmission and active suspension arenas. On the domestic front, General Motors Corporation and Ford Motor Company introduced several 4-speed automatic electronic transmissions while overseas automaker Mercedes-Benz AG, offered one model with an electronic 5-speed automatic transmission. The Mercedes 300 SL achieved 0.6 mpg better fuel economy with the 5-speed automatic transmission than with the 5-speed manual. Nissan became the first automaker in the world to offer a production active suspension. Fuel economy of an Infiniti Q45 with active suspension was approximately 2 mpg less than the standard-suspension model.

GM's Hydra-matic Division introduced its electronic 4-speed automatic (4T60-E) for use in all of GM's domestically built front-drive luxury and full-size cars. GM also offered a new electronic rear-drive 4-speed automatic transmission for its 1991 model full-size light-duty trucks, called the Hydra-matic 4L80-E; it was the first electronically controlled unit for use in GM trucks.

Ford Motor Company entered the 1991 model year with a new electronically controlled AXOD-E 4-speed automatic

transaxle for the front-wheel drive Ford Taurus, Mercury Sable, and Lincoln Continental and a Traction Assist system for Town Cars equipped with antilock brake system (ABS). The AXOD-E is a revised version of the AXOD 4-speed automatic gearbox introduced in the 1986 Taurus/Sable cars. The AXOD-E uses electronic-shift and converter-clutch controls that are integrated into Ford's EEC-IV engine-control module (ECM). The ECM processes data from the engine and transmission in order to provide more precise shifts. Also for MY 1991 Ford extended the application of its rear-wheel drive electronic four-speed automatic to additional engine types in the large pickups and utilities.

D. New Materials Applications

Automotive materials applications for MY 1991 underwent a few changes. Fuel economy standards and environmental concerns appear to be reshaping the global automotive materials scene. For the 1991 model year, automakers chose aluminum, plastic, powder metals, and stainless steel for a number of significant new component applications in their passenger cars and light trucks. The reduced weight of these components contributed to improved fuel economy of the models using them.

The GM Saturn introduced the first true hybrid plastic/steel passenger car body. Its vertical body panels were made from thermoplastic rather than thermoset plastics used on other plastic-skinned vehicles, such as GM's APV minivans. It is powered by an all-aluminum engine produced through the advanced lost-foam casting process, and it features a stainless-steel exhaust system.

GM's 24-valve, twin-cam 3400 V-6 was another new engine with substantial aluminum content in MY 1991. It featured aluminum heads, camshaft carriers, valve covers, and upper-intake manifold castings.

Cars equipped with all cast aluminum wheels included the Pontiac Grand Prix GTP Coupe, Chevrolet Lumina Z34, and Oldsmobile W-Series Cutlass Supreme. Wheels represent a major application for aluminum because their total weight per car is about 80 lbs, according to Ward's Automotive 1991 Yearbook. Many other cars feature light alloy wheels for 1991 model year (e.g., Buick Roadmaster Estate station wagon, Saturn (optional), Ford's Mustang LX and GT).

The body sheet metal of Honda's imported Acura NSX sports car is made entirely of a new type of aluminum sheet that is not only 40 percent lighter

than steel, but also more dent-resistant than previous aluminum sheets.

Formerly known as sheet molding compound, and before that simply as fiberglass, the SMC acronym took on a new definition to reflect its improved nature: sheet molding composite. It offers greater styling flexibility than steel and is light weight, and yet tooling costs are lower. SMC is used on the entire exterior of the Chevrolet Corvette, the hood of the high performance 1991 Ford Taurus SHO, and most major body panels on GM's APV minivans. Other plastic applications include a host of new bumpers and fascias; the cam covers on Ford's modular engines; and many small components, such as the power-steering pump pulleys used in GM cars equipped with the 3.1 L V-6.

Ford has been the most active in developing applications for powder-metal (PM) components. PM materials are stronger, lighter-weight components that reduce reciprocating weight, decrease vibration, and enhance durability. Besides the new 4.6 L V-8, Ford's 1.9 L 4-cylinder Escort engines use PM connecting rods and camshafts. PM components are formed by pouring precise amounts of PM into molds and then compressing them under high heat and pressure. The biggest PM parts in Ford's 4.6 L V-8s are the connecting rods, which weigh about 1.5 pounds apiece. Other PM components included: oil pump gears, crankshaft and camshaft sprockets, and valve seats and guides.

New models continued the trend to galvanized steel panels. Ford's light trucks made use of zinc-coated steel on the Explorer sport/utility vehicles. GM's redesigned B-body large station wagons, the Chevrolet Caprice, Buick Roadmaster Estate, and Oldsmobile Custom Cruiser also use dual-side electrogalvanized steel on every major body panel except the roof; as did the designed front-wheel drive C-body Oldsmobile Ninety Eight and Buick Park Avenue sedans.

GM's Cadillac C-body cars, and the Fleetwood, featured stainless steel exhaust system components such as tailpipes, resonators, mufflers and intermediate pipes and hangers. Ford specified stainless steel exhaust manifolds, instead of conventional cast-iron units, for use on its new 4.6 L V-8 engine. The 5 L HO V-8 on 1991 Thunderbird/Cougar models also featured a stainless exhaust manifold.

E. Summary

Due to the combination of the Persian Gulf War and the recession, there was a decline in vehicle production and sales. But despite the decline in sales,

manufacturers were still introducing new technologies and producing more fuel-efficient passenger cars and light trucks for the 1991 model year.

[FR Doc. 92-9303 Filed 4-22-92; 8:45 am]
BILLING CODE 4910-49-M

DEPARTMENT OF THE TREASURY

Public Information Collection Requirements Submitted to OMB for Review

Dated: April 17, 1992.

The Department of the Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Public Law 96-511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 3171 Treasury Annex, 1500 Pennsylvania Avenue, NW., Washington, DC 20220.

Internal Revenue Service

OMB Number: 1545-0582.

Form Number: IRS Form 1139.

Type of Review: Extension.

Title: Corporation Application for Tentative Refund.

Description: Form 1139 is filed by corporations that expect to have a net operating loss, net capital loss, or unused general business credits carried back to a prior tax year. IRS uses Form 1139 to determine if the amount of the loss or unused credits is reasonable.

Respondents: Businesses or other for-profit.

Estimated Number of Responses/Recordkeepers: 3,000.

Estimated Burden Hours Per

Respondent/Recordkeeper:

Recordkeeping—24 hours, 52 minutes.

Learning about the law or the form—3 hours, 7 minutes.

Preparing the form—21 minutes.

Copying, assembling and sending the form to the IRS—1 hour, 20 minutes.

Frequency of Response: On occasion.

Estimated Total Reporting/

Recordkeeping Burden: 113,640 hours.

Clearance Officer: Garrick Shear, (202) 535-4297, Internal Revenue Service, Room 5571, 1111 Constitution Avenue, NW., Washington, DC 20224.

OMB Reviewer: Milo Sunderhauf, (202) 395-6880, Office of Management and Budget, Room 3001, New Executive

Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports, Management Officer.

[FR Doc. 92-9506 Filed 4-22-92; 8:45 am]

BILLING CODE 4830-01-M

Customs Service

Performance Review Board; Appointment of Members

AGENCY: U.S. Customs Service, Department of Treasury.

ACTION: General notice.

SUMMARY: This Notice announces the appointment of the members of the United States Customs Service Performance Review Boards (PRB's) in accordance with 5 U.S.C. 4313(c)(4). The purpose of the PRB's is to review senior executives' performance appraisals and make recommendations regarding performance appraisals and performance awards.

EFFECTIVE DATE: July 1, 1992.

FOR FURTHER INFORMATION CONTACT: Loretta J. Goerlinger, Director, Office of Human Resources, United States Customs Service, Post Office Box 636, Washington, D.C. 20044; telephone (202) 634-5270.

Background

There are two (2) PRB's in the U.S. Customs Service.

Performance Review Board 1

The purpose of this Board is to review the performance appraisals of senior executives rated by the Commissioner or Deputy Commissioner of Customs. The members are:

Daniel R. Black, Associate Director, Office of Compliance Operations, Bureau of Alcohol, Tobacco & Firearms

Guy P. Caputo, Deputy Director, U.S. Secret Service

Dennis M. O'Connell, Director, Trade and Tariff Affairs, Department of Treasury

John C. Doohar, Director, Washington Center, Federal Law Enforcement Training Center

Ray M. Rice, Assistant Director, Office of General Training, Federal Law Enforcement Training Center

Performance Review Board 2

The purpose of this Board is to review the performance appraisals of all senior executives except those rated by the Commissioner or Deputy Commissioner of Customs. All are Assistant

Commissioners or Regional Commissioners of U.S. Customs Service. The members are:

Assistant Commissioners:

Samuel H. Banks, Office of Commercial Operations

John E. Hensley, Office of Enforcement

Charles W. Winwood, Office of Inspection and Control

James W. Shaver, Office of International Affairs

Charles E. Parkinson, Assistant Commissioner, Congressional Affairs

George D. Heavey, Office of Internal Affairs

Edward F. Kwas, Office of Management

William F. Riley, Office of Information Management

Regional Commissioners:

Philip W. Spayd, Northeast Region

Anthony N. Liberta, New York Region

Garnet J. Fee, North Central Region

George C. Corcoran, Jr., Southeast Region

J. Robert Grimes, South Central Region

Robert S. Trotter, Southwest Region

Quintin L. Villanueva, Pacific Region

Dated: April 16, 1992.

Carol Hallett,

Commissioner of Customs.

[FR Doc. 92-9511 Filed 4-22-92; 8:45 am]

BILLING CODE 4820-02-M

UNITED STATES INFORMATION AGENCY

AGENCY: United States Information Agency.

ACTION: Notice of meeting of the Cultural Property Advisory Committee.

SUMMARY: The Cultural Property Advisory Committee will meet on Monday, May 4 from 2 p.m. to approximately 4:30 p.m. and on Tuesday, May 5 from 9 a.m. to approximately 3 p.m. at USIA headquarters, 301 4th Street, SW., Conference Room 840, Washington, DC. The meeting's agenda on May 4 and 5 will consist of the swearing-in of new members of the Committee, briefings on the Convention on Cultural Property Implementation Act and Federal ethics laws, USIA security and administrative matters. The Committee will discuss the effectiveness of the Convention on Cultural Property Implementation Act. Various museums, art dealer and archaeology associations have been invited to present statements.

The meeting of the Cultural Property Advisory Committee will be open to the public. Due to security requirements and limited space, persons wishing to attend should telephone (202) 619-6612 by 5 p.m. on Friday, May 1, 1992. A list of public attendees will be posted at the security desk of USIA headquarters in order to facilitate access to the meeting room.

Dated: April 16, 1992.

Eugene P. Kopp,

Deputy Director, U.S. Information Agency.

[FR Doc. 92-9476 Filed 4-22-92; 8:45 am]

BILLING CODE 8230-01-M

Sunshine Act Meetings

Federal Register

Vol. 57, No. 79

Thursday, April 23, 1992

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

BLACKSTONE RIVER VALLEY NATIONAL HERITAGE CORRIDOR COMMISSION

Notice of Meeting

Notice is hereby given in accordance with Section 552b of Title 5, United States Code, that a meeting of the Blackstone River Valley National Heritage Corridor Commission will be held on Thursday, May 7, 1992.

The Commission was established pursuant to Public Law 99-647. The purpose of the Commission is to assist federal, state and local authorities in the development and implementation of an integrated resource management plan for those lands and waters within the Corridor.

The meeting will convene at 7:00 P.M. at the Selectmen's Chambers, Blackstone Municipal Building, 15 St. Paul Street, Blackstone, MA for the following reasons:

1. Report on the Blackstone Gorge Area.
2. Report on Round 1 and Round 2 Funding of Corridor Demonstration Projects.
3. Report of the Subcommittee on Environmental Issues.
4. Appointment of Committee to Consider Boundary Issues.
5. Public Comment Period.

It is anticipated that about twenty people will be able to attend the session in addition to the Commission members.

Interested persons may make oral or written presentations to the Commission or file written statements. Such requests should be made prior to the meeting to: James Pepper, Executive Director, Blackstone River Valley National Heritage Corridor Commission, P.O. Box 34, Uxbridge, MA 01569. Telephone: (508) 278-9400.

Further information concerning this meeting may be obtained from James Pepper, Executive Director of the Commission at the address below.

Nancy L. Brittain,
Acting Executive Director, Blackstone River Valley National Heritage Corridor Commission.

[FR Doc. 92-9559 Filed 4-21-92; 9:38 am]

BILLING CODE 4310-70-M

U.S. CONSUMER PRODUCT SAFETY COMMISSION

TIME AND DATE: 10:00 a.m., Tuesday, April 28, 1992.

LOCATION: Room 556, Westwood Towers, 5401 Westbard Avenue, Bethesda, Maryland.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Public Hearing—FY 94 Priorities

The Commission will hold a public hearing on its agenda and priorities for Fiscal Year 1994.

2. FY 94 Priorities

The staff will brief the Commission on recommendations for priorities for Fiscal Year 1994.

For a Recorded Message Containing the Latest Agenda Information, Call (301) 504-0709.

CONTACT PERSON FOR ADDITIONAL INFORMATION: Sheldon D. Butts, Office of the Secretary, 5401 Westbard Ave., Bethesda, MD 20207, (301) 504-0800.

Dated April 21, 1992.

Sheldon D. Butts,
Deputy Secretary.

[FR Doc. 92-9628 Filed 4-21-92; 2:13 pm]

BILLING CODE 6355-01-M

U.S. CONSUMER PRODUCT SAFETY COMMISSION

TIME AND DATE: 10:00 a.m., Thursday, April 30, 1992.

LOCATION: room 556, Westwood Towers, 5401 Westbard Avenue, Bethesda, Maryland.

STATUS: Closed to the Public.

MATTERS TO BE CONSIDERED:

Compliance Status Report.

The staff will brief the Commission on the status of various compliance matters.

For a Recorded Message Containing the Latest Agenda Information, Call (301) 504-0709.

CONTACT PERSON FOR ADDITIONAL INFORMATION: Sheldon D. Butts, Office of the Secretary, 5401 Westbard Ave., Bethesda, Md. 20207, (301) 504-0800.

Dated: April 21, 1992.

Sheldon D. Butts,
Deputy Secretary.

[FR Doc. 92-9629 Filed 4-21-92; 2:13 pm]

BILLING CODE 6355-01-M

FARM CREDIT ADMINISTRATION

Farm Credit Administration Board;
Special Meeting

SUMMARY: Notice is hereby given, pursuant to the Government in the Sunshine Act (5 U.S.C. 552b(e)(3)), of the forthcoming special meeting of the Farm Credit Administration Board (Board).

DATE AND TIME: The special meeting of the Board will be held at the offices of the Farm Credit Administration in McLean, Virginia, on April 28, 1992, from 9:00 a.m. until such time as the Board may conclude its business.

FOR FURTHER INFORMATION CONTACT: Curtis M. Anderson, Secretary to the Farm Credit Administration Board, (703) 883-4444.

ADDRESS: Farm Credit Administration, 1501 Farm Credit Drive, McLean, Virginia 22102-5090.

SUPPLEMENTARY INFORMATION: This special meeting of the Board will be open to the public (limited space available). The matters to be considered at the meeting are:

Open Session

A. New Business

1. Corporate Restructuring

a. FCB of St. Louis and FCB of St. Paul Consolidation (Final Approval).

2. Regulations

a. Regulations on Conservatorships and Receiverships (Proposed).

3. Other

a. Policy on Capital Regulations.
a. Policy on Camel Rating Disclosure.
c. Governance of Office of Secondary Market Oversight (OSMO).

Dated: April 21, 1992.

Curtis M. Anderson,
Secretary, Farm Credit Administration Board.

[FR Doc. 92-9608 Filed 4-21-92; 12:54 pm]

BILLING CODE 6705-01-M

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice of Changes in Subject Matter of Agency Meeting

Pursuant to the provisions of subsection (e)(2) of the "Government in the Sunshine Act" (5 U.S.C. (e)(2)), notice is hereby given that at its closed meeting held at 10:12 a.m. on Tuesday, April 21, 1992, the Corporation's Board of Directors determined, on motion of Director C. C. Hope, Jr. (Appointive), seconded by Director T. Timothy Ryan, Jr. (Office of Thrift Supervision), concurred in by Vice Chairman Andrew

W. Hove, Jr., Chairman William Taylor, and Director Stephen R. Steinbrink (Acting Comptroller of the Currency), that Corporation business required the addition to the agenda for consideration at the meeting, on less than seven days' notice to the public, of the following matters:

Application of The Prairie State Bank, Augusta, Kansas, for the Corporation's consent to merge, under its charter and title, with Maize State Bank, Maize, Kansas, and for consent to establish the sole office of Maize State Bank as a branch of the resultant bank.

Matters relating to the Corporation's assistance agreement with an insured bank.

Matters relating to the Corporation's corporate activities.

The Board further determined, by the same majority vote, that no earlier notice of the changes in the subject matter of the meeting was practicable; that the public interest did not require

consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting by authority of subsections (c)(2), (c)(4), (c)(6), (c)(8), (c)(9)(A)(ii), and (c)(9)(B) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(2), (c)(4), (c)(6), (c)(8), (c)(9)(A)(ii), and (c)(9)(B)).

Dated: April 21, 1992.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Deputy Executive Secretary.

[FR Doc. 92-9650 Filed 4-21-92; 3:57 am]

BILLING CODE 6714-01-M

FEDERAL ELECTION COMMISSION

"FEDERAL REGISTER" NUMBER: 92-9003.

PREVIOUSLY ANNOUNCED DATE AND TIME:

Thursday, April 23, 1992, 10:00 a.m.,

Meeting Open to the Public.

The Following Item Was Removed From the Agenda:

Procedures on Tally Vote Circulations.

DATE AND TIME: Tuesday, April 28, 1992, 10:00 a.m.

PLACE: 999 E Street, N.W., Washington, D.C.

STATUS: This Meeting Will Be Closed to the Public.

ITEMS TO BE DISCUSSED:

Compliance matters pursuant to 2 U.S.C.

§ 437g.

Audits conducted pursuant to 2 U.S.C. § 437g.

§ 438(b), and Title 26, U.S.C.

Matters concerning participation in civil

actions or proceedings or arbitration

Internal personnel rules and procedures or

matters affecting a particular employee

PERSON TO CONTACT FOR INFORMATION:

Mr. Fred Eiland, Press Officer,

Telephone: (202) 219-4155.

Delores Harris,

Administrative Assistant.

[FR Doc. 92-9580 Filed 4-21-92; 10:43 am]

BILLING CODE 6715-01-M

Federal Register

Thursday
April 23, 1992

Part II

Department of Transportation

Federal Highway Administration

Intermodal Surface Transportation Efficiency Act of 1991; Implementation Guidance; Notice

DEPARTMENT OF TRANSPORTATION**Federal Highway Administration****Intermodal Surface Transportation Efficiency Act of 1991; Implementation Guidance**

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice.

SUMMARY: The FHWA, in order to assure wide dissemination of implementation guidance on the Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA) (Pub. L. 102-240, 105 Stat. 1914), (which it has issued to its regional and division offices) is publishing implementation materials that have been issued since the act was signed on December 18, 1991. The FHWA will continue to publish implementation guidance periodically. Any changes to this implementation guidance will be published in future issues of the **Federal Register**.

The ISTEA implementation guidance published in this Federal Register notice is intended to be nonbinding except insofar as it references existing statutory requirements and should not be construed as rules of general applicability and legal effect or notices of proposed rulemaking.

On March 27, 1992, the FHWA issued a notice (57 FR 10691) advising members of the public that they may now dial into the FHWA Electronic Bulletin Board System (FEBBS) ISTEA information conference using a microcomputer and modem and view informal Questions and Answers on how the agency intends to implement the provisions of the ISTEA. The FEBBS will also contain the implementation guidance published with this notice as well as future implementation guidance. This read-only facility is especially intended for use by the State and local transportation agencies. The telephone number for FEBBS is Area Code 202-366-3764. While the system supports 300, 1200 and 2400 baud line speeds, and a variety of terminal types and protocols, setting the modem for 2400 baud, 8 data bits, full duplex and no parity will give optimal performance. Once a connection has been established and the <R>egistration item completed, callers should select either <Q>uestions and Answers on ISTEA, or <I>nformation for more detailed help.

Specific questions on any of the material published with this notice should be directed to the contact person named in the particular guidance; if a contact is not included, calls should be

directed to Frank Calhoun, Assistant Chief Counsel for Legislation and Regulations, Office of the Chief Counsel, (202) 366-0761, Federal Highway Administration, 400 7th Street SW., room 4223 (HCC-10), Washington, DC 20590, for referral. Questions also can be directed to the FHWA Regional Offices or the FHWA Division Office in your State; the addresses and phone numbers for these offices are listed in an attachment to this notice. Some of the materials reference attachments which were copies of sections of the ISTEA. These are not included. Copies can be obtained from the offices referred to herein.

FOR TECHNICAL ASSISTANCE CONTACT: FHWA Computer Help Desk, HMS-40, room 4401, 400 Seventh Street, SW., Washington, DC 10590. (202) 366-1120.

FOR FURTHER INFORMATION CONTACT: Contact Mr. Frank L. Calhoun, Office of the Chief Counsel, (202) 366-0761, Federal Highway Administration, 400 Seventh Street, SW., Washington, DC 20590. Office hours are from 7:45 a.m. to 4:15 p.m., e.t., Monday through Friday, except legal holidays.

(23 U.S.C. 315; 49 CFR 1.48)

Issued on: April 10, 1992.

T.D. Larson,
Administrator.

FHWA—Regional Offices**Region 1 (HRA-01)—Headquarters, Hours of Duty: 7:30-4:00 EST**

Location: Leo W. O'Brien Federal Building, Room 719, Clinton Avenue and North Pearl Street, Albany, New York 12207
Regional Federal Highway Administrator, John G. Bestgen, Jr., 518-472-6476

Region 3 (HRA-03)—Headquarters, Hours of Duty: 7:30-4:15 EST

Location: George H. Fallon Federal Office Building, 31 Hopkins Plaza, Room 1633, Baltimore, Maryland 21201
Regional Federal Highway Administrator, David S. Gendell, 410-962-0093

Region 4 (HRA-04)—Headquarters, Hours of Duty: 7:45-4:15 EST

Location: Suite 200, 1720 Peachtree Road, NW., Atlanta, Georgia 30367
Regional Federal Highway Administrator, Leon N. Larson, 404-257-4078

Region 5 (HRA-05)—Headquarters, Hours of Duty: 7:30-4:15 CST

Location: 18209 Dixie Highway, Homewood, Illinois 60430-2294
Regional Federal Highway Administrator, Herbert R. Teets, 708-206-3206

Region 6 (HRA-06)—Headquarters, Hours of Duty: 8:00-4:30 CST

Location: 819 Taylor Street, Room 8A00, P.O. Box 902003, Fort Worth, Texas 76102
Regional Federal Highway Administrator, Wesley S. Mendenhall, Jr., 817-334-3741

Region 7 (HRA-07)—Headquarters, Hours of Duty: 7:30-4:00 CST

Location: 6301 Rockhill Road, Kansas City, Missouri 64131
Mailing Address: P.O. Box 419715, Kansas City, Missouri 64141
Regional Federal Highway Administrator, Volmer K. Jensen, 816-926-7563

Region 8 (HRA-08)—Headquarters, Hours of Duty: 7:45-4:15 MST

Location: 555 Zang Street, Room 400, Lakewood, Colorado 80228
Regional Federal Highway Administrator, Louis N. MacDonald, 303-969-6722

Region 9 (HRA-09)—Headquarters, Hours of Duty: 7:45-4:15 PST

Location: 211 Main Street, Room 1100, San Francisco, California 94105
Regional Federal Highway Administrator, Edwin M. Wood, 415-744-2639

Region 10 (HRA-010)—Headquarters, Hours of Duty: 7:45-4:30 PST

Location: KOIN Center, Suite 600, 222 S.W. Columbia Street, Portland, Oregon 97201
Regional Federal Highway Administrator, Jerald P. Clark, 503-326-2053

FHWA—Federal-Aid Division Offices**Alabama (HDA-AL)**

7:15-4:30 CST

Division Administrator, Joe D. Wilkerson, 500 Eastern Boulevard, Suite 200, Montgomery, Alabama 36117-2018, 205-223-7370

Alaska (HDA-AK)

7:30-5:00 AST

Division Administrator, Robert E. Ruby, 709 W. Ninth Street, Room 851, Juneau, Alaska 99802-1648, 907-586-7418

Arizona (HDA-AZ)

7:30-4:15 MST

Division Administrator, Edward A. Wueste, 234 N. Central Avenue, Suite 300, Phoenix, Arizona 85004, 602-379-3646

Arkansas (HDA-AR)

7:30-4:00 CST

Division Administrator, Harold C. Wieland, Federal Office Building, Room 3128, 700 West Capitol Avenue, Little Rock, Arkansas 72201-3298, 501-378-5625

California (HDA-CA)

7:45-4:30 PST

Division Administrator, Roger E. Borg, Federal Building, 2nd Floor, 801 I Street, Sacramento, California 95814, 916-551-1280

Colorado (HDA-CO)

7:45-4:15 MST

Division Administrator, George H. Osborne, 555 Zang Street, Room 250, Lakewood, Colorado 80228, 303-969-6730

Connecticut (HDA-CT)

7:30—4:00 EST

Division Administrator, James J. Barakos,
Abraham A. Ribicoff Federal Building,
450 Main Street, Room 635, Hartford,
Connecticut 06103, 203-240-3705

Delaware (HDA-DE)

7:45—4:15 EST

Division Administrator, John J. Gilbert, 300
South New Street, Room 2101, Dover,
Delaware 19901-6726, 302-734-5323

District of Columbia (HDA-DC)

8:00—4:30 EST

Division Administrator, Arthur J. Hill, Union
Center Plaza, Suite 750, 820 First Street,
N.E., Washington, D.C. 20002, 202-523-
0163

Florida (HDA-FL)

7:30—4:00 EST

Division Administrator, Jennings R. Skinner,
227 N. Bronough Street, Room 2015,
Tallahassee, Florida 32301, 904-681-7223

Georgia (HDA-GA)

7:00—4:00 EST

Division Administrator, Charles J. Nemmers,
1720 Peachtree Rd., NW., Suite 300,
Atlanta, Georgia 30367, 404-347-4751

Hawaii (HDA-HI)

7:30—4:00 HST

Division Administrator, William R. Lake, Jr.,
Prince Jonah Kuhio Kalaniana'ole Federal
Building, 300 Ala Moana Boulevard,
Room 3202, Honolulu, Hawaii 96850, 808-
551-2700

Mailing Address: Box 50206, Honolulu,
Hawaii 96850

Idaho (HDA-ID)

7:30—4:00 MST

Division Administrator, Jack T. Coe, 3050
Lakeharbor Lane, Suite 126, Boise, Idaho
83703, 208-334-1843

Illinois (HDA-IL)

7:30—4:15 CST

Division Administrator, Vacant, 3250
Executive Park Drive, Springfield, Illinois
62705, 217-472-4600

Indiana (HDA-IN)

7:30—4:00 EST

Division Administrator, Arthur A. Fendrick,
575 N. Pennsylvania Street, Room 254,
Indianapolis, Indiana 46204, 317-226-
7475

Iowa (HDA-IA)

7:45—4:30 CST

Division Administrator, Hubert A. Willard,
105 Sixth Street, Ames, Iowa 50010, 515-
233-1664

Kansas (HDA-KS)

7:45—4:15 CST

Division Administrator, Robert J. Deatrick,
444 SE. Quincy Street, Room 240, Topeka,
Kansas 66683, 913-295-2550

Kentucky (HDA-KY)

8:00—4:45 EST

Division Administrator, Paul E. Toussaint,
John C. Watts Federal Building and U.S.
Courthouse, 330 W. Broadway, Frankfort,
Kentucky 40602, 507-227-7321

Mailing Address: P.O. Box 536, Frankfort,
Kentucky 40602

Louisiana (HDA-LA)

7:30—4:00 CST

Division Administrator, William A. Sussman,
Federal Building, Room 255, 750 Florida
Street, Baton Rouge, Louisiana 70801,
504-389-0244

Mailing Address: P.O. Box 3929, Baton Rouge,
Louisiana 70821

Maine (HDA-ME)

7:30—4:00 EST

Division Administrator, William D.
Richardson, Edmund S. Muskie Federal
Building, 40 Western Avenue, Room 614,
Augusta, Maine 04330, 207-662-8487

Maryland (HDA-MD)

7:45—4:15 EST

Division Administrator, A. Porter Barrows,
The Rotunda, Suite 220, 711 West 40th
Street, Baltimore, Maryland, 410-962-
4440

Massachusetts (HDA-MA)

7:45—4:15 EST

Division Administrator, Vacant, 55
Broadway—10th Floor, Cambridge,
Massachusetts 02142, 617-494-2418

Michigan (HDA-MI)

7:45—4:15 EST

Division Administrator, A. George Ostensen,
Federal Building, Room 211, 315 West
Allegan Street, Lansing, Michigan 48933,
517-377-1844

Minnesota (HDA-MN)

7:30—4:00 CST

Division Administrator, Charles E. Foslien,
Metro Square Building, Suite 490,
Seventh & Robert Streets, St. Paul,
Minnesota 55101, 612-290-3230

Mississippi (HDA-MS)

7:30—4:00 CST

Division Administrator, John F. Sullivan, Jr.,
666 North Street, Suite 105, Jackson,
Mississippi 39202-3199 601-965-4215

Missouri (HDA-MO)

7:30—4:00 CST

Division Administrator, Gerald J. Reithsen,
209 Adams Street, Jefferson City,
Missouri 65101 314-836-7104
Mailing Address: P.O. Box 1787, Jefferson
City, Missouri 65102

Montana (HDA-MT)

7:30—4:00 MST

Division Administrator, Henry D. Honeywell,
Federal Office Building, 301 S. Park,
Drawer 10056, Helena, Montana 59626-
0056 406-499-5306

Nebraska (HDA-NE)

7:30—4:15 CST

Division Administrator, Charles A. Culp,
Federal Building, Room 220, 100
Centennial Mall North, Lincoln,
Nebraska 68508-3851, 402-437-5521

Nevada (HDA-NV)

7:45—4:30 PST

Division Administrator, Michael A. Cook,
Acting, 1535 Hot Springs Road, Suite 100,
Carson City, Nevada 89701-0602 702-
687-5320

New Hampshire (HDA-NH)

7:30—4:00 EST

Division Administrator, Gerald L. Eller,
Federal Building, Room 204, 279 Pleasant
Street, Concord, New Hampshire 03301,
603-225-1605

New Jersey (HDA-NJ)

8:00—4:30 EST

Division Administrator, John J. Kessler, Jr.,
Suburban Square Building, 2nd Floor, 25
Scotch Road, Trenton, New Jersey 08628-
2595, 609-989-2288

New Mexico (HDA-NM)

7:30—4:00 MST

Division Administrator, Reuben S. Thomas,
117 U.S. Courthouse, S. Federal Place,
Santa Fe, New Mexico 87501-1963, 505-
988-6669

New York (HDA-NY)

7:30—4:00 EST

Division Administrator, Harold J. Brown, Leo
W. O'Brien Federal Building, 9th Floor,
Clinton Avenue and North Pearl Street,
Albany, New York 12207, 518-472-3616

North Carolina (HDA-NC)

7:45—4:15 EST

Division Administrator, Nicholas L. Graf, 310
New Bern Avenue, Suite 410, Raleigh,
North Carolina 27611, 919-856-4346

North Dakota (HDA-ND)

7:45—4:30 CST

Division Administrator, Vacant, Federal
Building, P.O. Box 1755, 220 East Rosser
Avenue, Bismarck, North Dakota 58502,
701-250-4204

Ohio (HDA-OH)

7:30—4:15 EST

Division Administrator, Fred J. Hempel, 200
North High Street, Room 328, Columbus,
Ohio 43215, 614-469-6896

Oklahoma (HDA-OK)

7:30—4:00 CST

Division Administrator, Gary E. Larsen,
Federal Office Building, Room 454, 200
NW. Fifth Street, Oklahoma City,
Oklahoma 73102, 405-231-4624

Oregon (HDA-OR)

7:30-4:15 PST

Division Administrator, Robert G. Clour, The Equitable Center, Suite 100, 530 Center Street NE., Salem, Oregon 97301, 503-339-5749

Pennsylvania (HDA-PA)

8:00-4:30 EST

Division Administrator, Manuel A. Marks, 228 Walnut Street, Harrisburg, Pennsylvania 17108, 717-782-2222
Mailing Address: P.O. Box 1086, Harrisburg, Pennsylvania 17108

Puerto Rico (HDA-PR)

7:30-4:00 AST

Division Administrator, Juan O. Cruz, Frederico Degetau Federal Building and U.S. Courthouse, Carlos Chardon Street, Room 329, Hato Rey, Puerto Rico 00918, 809-766-5600

Rhode Island (HDA-RI)

7:45-4:15 EST

Division Administrator, Gordon G. Hoxie, 380 Westminster Mall, Fifth Floor, Providence, Rhode Island 02903, 401-528-4541

South Carolina (HDA-SC)

7:45-4:15 EST

Division Administrator, Robert J. Probst, Strom Thurmond Federal Building, 1835 Assembly Street, Suite 758, Columbia, South Carolina 29201, 803-765-5411

South Dakota (HDA-SD)

8:00-4:30 CST

Division Administrator, Donald F. Kamnikar, Federal Building, Room 337, 225 South Pierre Street, P.O. Box 700, Pierre, South Dakota 57501, 605-224-8033

Tennessee (HDA-TN)

8:00-4:30 CST

Division Administrator, Dennis C. Cook, 249 Cumberland Bend Drive, Nashville, Tennessee 37228, 615-736-5394

Texas (HDA-TX)

7:30-4:15 CST

Division Administrator, Frank M. Mayer, Federal Office Building, 300 East Eighth Street, Room 826, Austin, Texas 78701, 512-482-5511

Utah (HDA-UT)

7:30-4:00 MST

Division Administrator, Donald P. Steinke, 2520 West 4700 South, Suite 9A, Salt Lake City, Utah 84118, 808-524-5141

Vermont (HDA-VT)

7:30-4:00 EST

Division Administrator, Karle L. Snyder, Federal Building, 87 State Street, Montpelier, Vermont 05602, 802-828-4423
Mailing Address: P.O. Box 568, Montpelier, Vermont 05601

Virginia (HDA-VA)

7:30-4:00 EST

Division Administrator, James M. Tumlin, Federal Building, 10th Floor, 400 N. 8th Street, Richmond, Virginia 23240 804-771-2371
Mailing Address: P.O. Box 10045, Richmond, Virginia 23240

Washington (HDA-WA)

7:30-4:30 PST

Division Administrator, Barry F. Morehead, Suite 501, Evergreen Plaza, 711 South Capitol Way, Olympia, Washington 98501, 206-753-9480

West Virginia (HDA-WV)

8:00-4:30 EST

Division Administrator, Billy, Rl Higginbotham, 550 Eagan Street, Suite 300, Charleston, West Virginia 25310, 304-347-5528

Wisconsin (HDA-WI)

7:30-4:15 CST

Division Administrator, James E. St. John, 4502 Vernon Boulevard, Madison, Wisconsin 53705-4905 608-264-5395

Wyoming (HDA-WY)

7:45-4:30 MST

Division Administrator, Frederick A. Behrens, 1916 Evans Avenue, Cheyenne, Wyoming 82001-3764, 307-772-2101

U.S. DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

MEMORANDUM

Date: December 19, 1991.
Reply to Attn. of: HIA-20.

Subject: Intermodal Surface Transportation Efficiency Act of 1991

From: Associate Administrator for Motor Carriers

To: Mr. Clinton O. Magby, II, Regional Director, Office of Motor Carriers, Portland, Oregon 97201, *Thru:* Michael F. Trentacoste, Sam Rea for Mike Trentacoste, Director, Office of Motor Carrier, Safety Field Operations (HFO-1) Sections 1023 and 4006 of the Intermodal Surface Transportation Efficiency Act of 1991, signed into law on December 18, prohibit States from allowing longer combination vehicles (LCVs) to operate on the National Network if such vehicles were not in lawful operation on June 1, 1991. A copy of each section is attached for your information and use.

A longer combination vehicle (LCV) is defined in Section 1023 as any combination of a truck tractor and two or more trailers or semitrailers which operate on the Interstate System with a gross vehicle weight greater than 80,000 pounds. Despite the reference to the Interstate, section 4006 makes it clear that LCVs are also allowed to run on the National Network if they comply with the Act. The National Network consists of the National System of Interstate and Defense Highways

and qualifying Federal-aid primary system highways as designated by the Secretary.

As part of the new Transportation Act, all States are required within 60 days of the date of enactment to submit to the Secretary a complete list of: (1) all operations of LCVs being conducted as of June 1, 1991, (2) all limitations and conditions, including but not limited to, routing-specific and configuration-specific designations and all other restrictions governing the operations of LCVs otherwise prohibited, (3) such statutes, regulations, limitations, and conditions, and (4) State length limitations applicable to commercial motor vehicles operating on the National Network. The submission shall include a copy of each specific statute, regulation, limitation, or condition cited.

To assist the States in meeting this requirement, we have developed the attached reporting package. Please have your Officers-in-Charge and State Directors hand carry this package to the appropriate State official for completion as soon as possible.

Completed forms and accompanying documentation, endorsed by the chief executive officer of the State Transportation/Highway organization, must be returned to the Division Office no later than February 18, 1992, for transmittal through the Regional Director to Mr. John Grimm (HIA-1). All State responses should be forwarded to HIA-1 by February 21, 1992. All States should complete the forms even if the vehicles described are prohibited, i.e., a "negative" response, if appropriate, is required.

The following additional points are to be highlighted to each State:

a. If a State fails to respond by February 18, 1992, especially with respect to the information requested for item (4), the Secretary is required to complete and file such information for the State. The Secretary's determination then becomes binding on the State.

b. States should not be constrained by the vehicle configuration descriptions used in the instructions. They are intended to guide a State's response, but not control it just to those descriptions. Any State using alternative methods to describe the vehicles in question should report the information in such manner.

c. Vehicles carrying non-divisible loads under special permit are not included in these reporting requirements.

d. All copies of State statutes, regulations, limitations, and conditions must be clear and legible for reproduction in the **Federal Register**.

We suggest that Division Office personnel maintain as much contact with the State officials charged with compiling this documentation as necessary to achieve a timely and complete submission.

If you have any questions regarding the law or required information, please call the Size and Weight Team point of contact for your region (Regions 1, 3, and 4—Kathy Busby at FTS 366-2976; Regions 5, 6, and 7—Dennis Miller at FTS 366-4026; and Regions 8, 9, and 10—Max Pieper at FTS 366-4029).

Please note the special section pertaining to Alaska contained in section 4006(a), new section 411(j)(2)(C), which establishes for

Alaska the LCV actual operation date as prior to July 6, 1991, rather than June 1, 1991.

R. P. Landis.

3 Attachments

Longer Combination Vehicle Information

Instructions

1. Read through completely before answering.
2. Complete and return to the Federal Highway Administration (FHWA) Division Office of Motor Carriers by February 18, 1992.
3. This form is to be signed by the chief executive officer of the State Transportation/Highway organization or official designee.
4. Contact the FHWA Division Office if you have questions concerning the requiring information.

Because of requirements included in the recently enacted Intermodal Surface Transportation Efficiency Act of 1991, the Federal Highway Administration needs to acquire and publish the answers to the following questions with regard to each State.

On or before June 1, 1991, and except for non-divisible loads moving under special permit:

* Were any commercial motor vehicle (CMV) combinations with 2 or more trailers, and a gross weight over 80,000 pounds, in lawful use on the Interstate System?

* Were any CMV combinations with 2 trailers (either of which was over 28½ feet long), or CMV combinations with more than 2 trailers (irrespective of length) in lawful use on the National Network (NN)?

If the answer to both the above is "No," check this box ☐ sign at the bottom of page 2 and return to the Federal Highway Administration.

If at least one "Yes" answer applies, please proceed (use additional sheets if necessary).

1. Did your State allow CMV combinations with 2 or more trailers and a gross weight over 80,000 pounds to operate on the Interstate System on or before June 1, 1991? (reference Section 1023).

☐ Yes ☐ No

If your answer is "No," proceed to question 2, if "Yes," complete page A.

2. Did your State allow CMV combinations with 2 trailers (either of which was over 28½ feet long), to operate on the National Network on or before June 1, 1991? (reference section 4006).

☐ Yes ☐ No

If your answer is "No," proceed to question 3, if "Yes," complete page B and/or C as appropriate.

3. Did your State allow CMV combinations with more than 2 trailers to operate on the National Network on or before June 1, 1991? (reference section 4006).

☐ Yes ☐ No

If your answer is "No," proceed to question 4, if yes, complete page D.

4. Were there additional vehicle configurations such as truck-trailer(s) operating legally in your State on or before June 1, 1991, on a continuing basis which may be subject to this legislative initiative but not covered on pages B, C, and D? If "yes," please complete page E as appropriate. If there are no additional vehicles to be

described, or upon completion of page E, sign below and return to the FHWA.

Signed _____

Title _____

Phone _____

Additional State Contact and Phone _____

Date _____

Note: Clear and legible copies of the documents cited or referred to on pages A through E are to be included with this questionnaire.

Please return the completed form and attachments to the Office of Motor Carrier State Director or Officer in Charge in the Federal Highway Administration Division Office.

Truck Tractor and Two or More Trailing Units With A Gross Vehicle Weight Greater Than 80,000 Pounds

Please describe the operations allowed, including permit requirements (duration—trip, annual, etc.—and cost); any restrictions imposed, such as route, speed, time of day, or weather restrictions; and any other conditions attached to such operations, e.g., driver qualifications, etc.

Provide a specific citation for the statutes or regulations under which the operations were allowed. (Give citations here and include copies.)

If these vehicle combinations were allowed on all Interstate routes on or before June 1, 1991, check this box ☐ and proceed to question 2.

If these vehicle combinations were restricted from some portion of the Interstate System within the State, please list the Interstate System routes where these vehicles were allowed on or before June 1, 1991, and then proceed to question 2.

Route From To (List the routes in order, small numbers to large.)

Return to question 2.

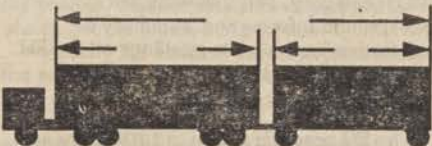
"Rocky Mountain Doubles"

(Long Semitrailer Plus Shorter Trailer Total Configuration Contains 7 Axles or Less)

Was this vehicle combination allowed on some or all of the National Network highways in the State on or before June 1, 1991?

☐ Yes ☐ No

If yes, please do the following (use additional sheets if necessary): Insert the maximum allowed dimensions in this diagram.*



* Best estimate of maximum length if no regulatory control.

Please describe the operations allowed, including linear size limits, and permit requirements (duration—trip, annual, etc.—

and cost); any vehicle operating restrictions imposed, such as route, speed, time of day, or weather restrictions; and any other conditions attached to such operations, e.g., driver qualifications, etc.

List the applicable State statutes and regulations associated with the above described operations and length limitations here and include a copy of each.

List all routes where these vehicles were allowed on or before June 1, 1991:

Routes From To (Begin with Interstates and then US Routes and finally State Routes. List the route with the smallest number first and the largest last.)

Proceed to Page C or return to question 3.

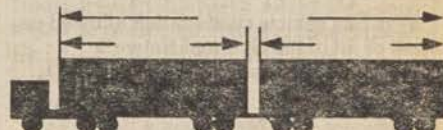
"Turnpike Doubles"

(Where Both Semitrailer & Trailer Exceed 40 Feet, Total Configuration Contains More Than 7 Axles)

Was this vehicle combination allowed on some or all of the National Network highways in the State on or before June 1, 1991?

☐ Yes ☐ No

If yes, please do the following (use additional sheets if necessary): Insert the maximum allowed dimensions in this diagram.*



* Best estimate of maximum length if no regulatory control.

Please describe the operations allowed, including linear size limits, and permit requirements (duration—trip, annual, etc.—and cost); any vehicle operating restrictions imposed, such as route, speed, time of day, or weather; and any other conditions attached to such operations, e.g., driver qualifications, etc.

List the applicable State statutes and regulations associated with the above described operations and length limitations here and include a copy of each.

List all routes where these vehicles were allowed on or before June 1, 1991:

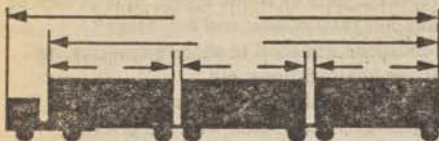
Routes From To (Begin with Interstates and then US Routes and finally State Routes. List the route with the smallest number first and the largest last.)

Return to question 3.

Triples

(Truck Tractor Plus Three Trailing Units)

Insert the maximum allowed dimensions in this diagram.*



* Best estimate of maximum length if no regulatory control.

Please describe the operations allowed, including linear size limits, and permit requirements (duration—trip, annual, etc.—and cost); any vehicle operating restrictions imposed, such as route, speed, time of day, or weather; and any other conditions attached to such operations, e.g., driver qualifications, etc.

List the applicable State statutes and regulations associated with the above described operations and length limitations here and include a copy of each.

List all routes where these vehicles were allowed on or before June 1, 1991:

Routes From To (Begin with Interstates and then US Routes and finally State Routes. List the route with the smallest number first and the largest last.)

Return to question 4.

Description of Any Other Commercial Motor Vehicles With Two or More Cargo Carrying Units Authorized or in Use Prior to June 1, 1991, Not Covered by Pages B, C, or D.

Was this vehicle combination allowed on some or all of the National Network highways in the State on or before June 1, 1991?

☐ Yes ☐ No

If yes, please do the following (use additional sheets if necessary):

Draw a diagram of the vehicle or vehicles and show the same maximum allowed dimensions as for the doubles or triples in the preceding pages.

Please describe the operations allowed including linear size limits, and permit requirements (duration—trip, annual, etc.—and cost); any vehicle operating restrictions imposed, such as route, speed, time of day, or weather restrictions; and any other conditions attached to such operations, e.g., driver qualifications, etc.

List the applicable State statutes and regulations associated with the above described operations and length limitations here and include a copy of each.

List all routes where these vehicles were allowed on or before June 1, 1991:

Routes From To (Begin with Interstates and then US Routes and finally State Routes. List the route with the smallest number first and the largest last.)

Return to and complete the signature block on page 2.

Date: December 26, 1991.

Reply to Attn. of: HFL-10.

Subject: Interim Procedures, Forest Highway Portion of Public Lands Highway.

From: Federal Lands Highway Program Administrator, Federal Lands Highway Office.

To: Federal Lands Highway Division Engineers, Regional Federal Highway Administrators.

On December 12, we met with the Forest Service (FS) Headquarters staff to discuss and develop a plan to implement the Forest Highway (FH) related provisions of the Intermodal Surface Transportation Efficiency Act (ISTEA) of 1991. The tentative plan for implementing the FH portion of Public Lands Highway (FH-PLH) is as follows:

December 20, 1991—Federal Lands Highway Office (FLHO) issues interim guidelines for the FH-PLH.

December 20, 1991—Allocate FY 92 FH-PLH funds.

January 7-8, 1992—Joint Federal Agency meeting in Denver, Colorado, to review interim guidance, provide training, receive field comments.

January 13, 1992—FLHO develops preliminary draft regulations for FH-PLH concept review.

February 15, 1992—FLH and FS convene a joint FH-PLH task force to develop draft regulation.

February 15, 1992—Federal Lands Highway Divisions (FLHD), FHWA Regions and FS review and comment on the preliminary draft regulations. Comments to be provided to the FH-PLH task force.

April 1992—Task force complete draft regulations for Federal Register.

April/May 1992—Hold a national FH-PLH meeting to inform FS, FHWA Region and FLHD staff on proposed FH-PLH regulatory procedures and related program activities.

September 1992—Receive formal Federal Register comments on proposed draft regulations.

December 1992—Publish final FH-PLH regulations in Federal Register.

Attached is a copy of the interim guidance for administering FH-PLH. The guidance includes information on the FH program history, current law as revised by the ISTEA, and interim program procedures. If there are any questions, please contact Mr. Allen W. Burden on FTS 366-9488.

Thomas O. Edick.

Attachment

Forest Highway Portion of Public Lands Highways Interim Guidance

The Intermodal Surface Transportation Efficiency Act (ISTEA) of 1991 eliminated the Forest Highway (FH) as a separate Federal Lands Highway Program (FLHP) category and combined it under the Public Lands Highway (PLH) category. The following are background information, summary of legislation, and interim guidance on the FH portion (FH-PLH):

Background Information

The FH program began in 1916 and was funded with general funds until 1970. The 1970 Federal-Aid Highway Act required FHs to be on the Federal-aid System and provided authorizations from the Highway Trust Fund. The October 13, 1977, General Accounting Office (GAO) report commented on the management of the program during the

seventies and stated that "Although the Federal Highway Administration (FHWA) and the Forest Service (FS) are jointly responsible for developing program regulations, they have not made sure that Federal interests are adequately considered when State and Federal officials make project selections." The GAO report directed FHWA and the FS to jointly revise procedures and develop legislative recommendations which resulted in an amendment to the FH definition in the Federal-Aid Highway Act of 1978 and issuance of amended FH regulations in April 1982 (23 CFR part 660).

Recently, the FS adopted the America's Great Outdoors Program which is dependent on a good FH transportation system. The America's Great Outdoors Program will provide needed economic development through recreational travel and activities. This new program agenda and ongoing forest management planning programs continues to show a strong transportation demand much of which depends on meeting the FH transportation system requirements.

Current Law as Revised by ISTEA

Section 101 of 23 U.S.C. defines a forest road as:

"... a road wholly or partly within, or adjacent to, and serving the National Forest system and which is necessary for the protection, administration, and utilization of the National Forest system and the use and development of its resources."

The ISTEA revised various sections of 23 U.S.C. pertaining to the FLHP as follows:

Section 1005(f) revised the PLH definition as set forth below. The first part ["a forest road under the jurisdiction of and maintained by a public authority"] is the previous forest highway definition. The second portion is similar to the previous PLH definition, except "those main highways" was changed to "any highway" and the reference to "Federal-aid System" was deleted.

"The term 'public lands highway' means a forest road under the jurisdiction of and maintained by a public authority and open to public travel or any highway through unappropriated or unreserved public lands, nontaxable Indian lands, or other Federal reservations under the jurisdiction of and maintained by a public authority and open to public travel."

Section 1032(a)(1) eliminated the provision for allocating funds authorized to be appropriated for forest highways by striking 202(a) of 23 U.S.C.; section 1032(a)(2) redesignated subsections 202(b), 202(c), 202(d) and 202(e) as 202(a), 202(b), 202(c) and 202(d) (conforming amendments).

Section 1032(a)(4) revised subsection 202(b) to read as follows:

"(b) On October 1 of each fiscal year, the Secretary shall allocate 34 percent of the sums authorized to be appropriated for such fiscal year for public lands highways among those States have unappropriated or unreserved public lands, nontaxable Indian lands or other Federal reservations, on the basis of need in such States, respectively, as determined by the Secretary upon application of the State highway departments of the

respective States. The Secretary shall give preference to those projects which are significantly impacted by Federal land and resource management activities which are proposed by a State which contains at least 3 percent of the total public lands in the Nation. The Secretary shall allocate 66 percent of the remainder of the authorization for public lands highways for each fiscal year as is provided in section 134 of the Federal-Aid Highway Act of 1987, and with respect to these allocations the Secretary shall give equal consideration to projects that provide access to and within the National Forest system, as identified by the Secretary of Agriculture through renewable resources and land use planning and the impact of such planning on existing transportation facilities."

The first portion of the revised subsection 202(b) provides for allocating 34 percent of the PLH authorizations using present discretionary procedures except that preference shall be given to States having at least 3 percent of the total public lands in the Nation. The latter portion provides for allocating the remaining public lands highway authorizations in accordance with section 134 of the Federal-Aid Highway Act of 1987, Surface Transportation and Uniform Relocation Assistance Act (STURAA). Section 134 of the STURAA is actually the FH allocation as published in the October 12, 1984, *Federal Register* Vol. 49, No. 199. Since public lands highway program funds are being allocated by two methods, the Office of Fiscal Services is issuing separate appropriation codes for the discretionary and FH formula portions.

Section 1032(b)(1) states in part, that "Notwithstanding any other provision of this title, no public lands highway project may be undertaken in any State pursuant to this section unless the State concurs in the selection and planning of the project." This provision is already embodied throughout the current FH regulations (23 CFR Part 660) including route designation and planning, and development of a priority program of projects.

Interim Program Procedures

Although the ISTEA combines FH and PLH as one category (public lands highways), the Act provides for the combined category to be administered under a coordinated but different procedures. The first procedure will follow the present PLH discretionary process. The second procedure will follow the present FH allocation and program selection process. In both procedures, the State highway agency is to concur in the planning and selection of PLH projects.

The FH portion of PLH will be administered as follows:

1. The designated FH network of roads (first portion of the PLH definition) will be updated by early FY 1993. The FH inventory will be completed as the designation is updated.
2. Funds for FH will be allocated under the present FH procedures.
3. The planning and selection of the program of projects will follow the same procedures as provided in the FH regulations (23 CFR Part 660), but the criteria may be

adjusted to improve the process. However, the criteria adopted must ensure that the transportation needs of the National Forest system are met in accordance with the 1977 GAO report.

4. The proposed program of projects funded with PLH discretionary and other funds should be considered and planned as part of the overall program plan.

5. The administration of the actual design and construction program (whether administered by FHWA-Federal Lands Highway Division or the State highway agency or other public authority) will follow present procedures.

Date: January 2, 1992.

Reply to Attn. of: HFS-21.

Subject: Information: Temporary Matching Fund Waiver—Interim Guidance.
From: Director, Office of Fiscal Services, Washington, DC 20590.
To: Regional Administrators, Division Administrators.

We are attaching interim guidance to be used in approving a temporary matching fund waiver authorized by section 1054 of the Intermodal Surface Transportation Efficiency Act of 1991. This guidance should be followed until regulations are issued.

If you have any questions concerning the temporary matching fund waiver, please contact Max Inman, FTS 366-2853.

Peter J. Basso.

Attachment

Temporary Matching Fund Waiver—Interim Guidance

Section 1054 of the ISTEA of 1991 allows a State to request an increased Federal share up to 100 percent on projects approved under title 23 when the Governor certifies that sufficient funds are not available to pay the non-Federal share of the project. Implementing regulations will be issued in 23 CFR part 140, subpart C.

The State may claim the increased share through September 30, 1993. The amount of the increased share actually paid to the State must be repaid by March 30, 1994, or deductions will be made to the State's FY 1995 and FY 1996 apportionments. The amounts deducted will be reapportioned to States for which deductions are not made.

Request for waiver. To request an increased Federal share, the State must:

- Submit a request for authorization/obligation for a project under title 23.
- Provide the Governor's certification stating that sufficient funds are not available to pay the cost of the non-Federal share of the project. The certification may apply to one project or a group of projects.
- Specify the Federal participating ratio, the amount of regular Federal funds, and the amount of the increased Federal share, which will be identified with the special appropriation codes listed in Exhibit A.

Governor's certification. The Governor must submit a certification to the Division Administrator which states that sufficient funds are not available to pay the cost of the non-Federal share of a project or projects. There is no prescribed format for the certification. Funds encumbered or

committed to other existing programs are considered unavailable for matching purposes.

Special rule for maximizing obligations.

The State may request that the amount obligated on the increased Federal share be based on the estimated costs that will be incurred prior to September 30, 1993. For example, the State may request 100 percent participation on a \$1,000,000 NHS project. It estimates that only one-half of the costs will be incurred prior to September 30, 1993. The amount obligated for the regular Federal share (60%) would be \$600,000 and for the increased Federal share may be from \$100,000 to \$200,000.

Fiscal Management Information System. A supplemental FHWA-37 will be prepared for the increased Federal share as an obligation using the special appropriation codes. The supplemental FHWA-37 should show only the State, special appropriation code, project number, step, urbanized area code, if applicable, and the additional Federal funds requested on a single line with a line number.

The increased Federal share is charged against the apportionment/allocation and the obligation limitation in the same manner as the regular Federal share.

Project agreements. The project agreement will contain the following statement:

The Federal-aid participation is increased to _____ percent for reimbursement claims paid on or before September 30, 1993, in accordance with the Intermodal Surface Transportation Efficiency Act of 1991, section 1054. The additional Federal funds requested total \$ _____. Claims paid after September 30, 1993, shall be at the regular Federal pro rata share of _____ percent.

The project agreement may be modified prior to September 30, 1993, to show changes in project costs, but the Federal participation ratio cannot be increased.

Progress payments. The State may claim reimbursement for the increased Federal share as part of its normal billing procedures. On each claim, project costs must be pro rated to the regular Federal share, the increased Federal share, and the State share, if any. The special appropriation codes will be used to identify the increased Federal share portion.

End of eligibility. Effective October 1, 1993, a modified project agreement, Form PR-2A, will be prepared for these projects to reduce the participation ratio to the regular Federal share. The PR-2A should contain the following statement:

The project agreement executed _____ (and modified on _____), is modified to decrease Federal-aid participation to _____ percent in accordance with the Intermodal Surface Transportation Efficiency Act of 1991, section 1054.

In lieu of individual project agreement modifications, the Division Administrator may reach an understanding with the State whereby the appropriate changes may be made in pen and ink on the existing agreements. Each change must be initialed and dated. The state can then be advised by letter similar to the following:

For the projects listed below, the project agreements have been manually changed to decrease the percent of Federal participation as of October 1, 1993:

Project No.	Revised % Fed. part	Revised Fed. funds
-------------	---------------------	--------------------

If you concur in the above revisions, please sign below and return to FHWA.
Signature _____

The Division Office will revise each supplemental FHWA-37 to show only the amount actually reimbursed as of September 30, 1993. No Federal payments will be made after September 30, 1993, for the increased Federal share.

Repayment. The State may repay the increased Federal share on or before March 30, 1994. Concurrent with the repayment of the increased Federal share, the supplemental FHWA-37 shall be coded "W" in column 43 to indicate that the supplemental portion of the project has been withdrawn. The amount reimbursed on the increased Federal share will be credited on the next billing.

Apportionment reduction. If repayment is not made by March 30, 1994, the State's FY 1995 and FY 1996 apportionments will be reduced. One-half of the reduction will occur in each of the fiscal years. The amounts deducted will be reapportioned to the remaining States. Appropriate adjustments will be made to each State's obligation limitation.

Appropriation Codes—Temporary Matching Fund Waiver

The following appropriation codes will be used on all documents for the increased Federal share:

Categories	Regular Federal share	Increased Federal share
Interstate.....	042	04P
Interstate Maintenance.....	04M	04Q
Interstate 4R.....	044	04T
Interstate Substitute.....	177	04V
National Highway System.....	315	31C
Surface Transportation Program.....	33A	33G
	33B	33H
	33C	33J
	33D	33K
	33E	33L
Bridge Program.....	114	11D
	117	11E
	118	11G
	119	11M
Congestion Mitigation Program.....	320	32B
Consolidated Primary.....	010	01E
Rural Secondary.....	075	07A
Urban System.....	W32	W3A
	W36	W3B

The State may request a temporary matching fund waiver on any project approved under title 23 but is encouraged to limit requests to the categories listed above. If the State requests a waiver in a category not listed, contact the Office of Fiscal

Services, HFS-21, to obtain the appropriation code.

Date: January 7, 1992.

Reply to Attn. of: HNG-42.

Subject: Implementation of 1991 ISTEA, Section 1038, Use of Recycled Paving Material.

From: Associate Administrator for Program Development.

To: Regional Federal Highway Administrators, Federal Lands Highway Program Administrator.

Section 1038 of the Intermodal Surface Transportation Efficiency Act (ISTEA) of 1991 entitled, "Use of Recycled Paving Material," specifically provides that a Federal-aid project may not be disapproved on the grounds that the project includes the use of asphalt pavement containing recycled rubber. Effective December 18, 1991, with the enactment of the Bill, Section 1038 also provides that a patented application process for recycled rubber be eligible for approval under the same conditions that an unpatented process is approved. Should you have any questions on this matter, please refer them to Messrs. Roger Goughnour, Construction and Maintenance Division, FTS 366-1549; or Jim Sorenson, Pavement Division, FTS 366-1333. Anthony R. Kane.

Date: January 9, 1992.

Reply to Attn. of: HRW-10.

Subject: Action: Outdoor Advertising Changes in the Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA).

From: Associate Administrator for Program Development, Washington, DC 20590.

To: Regional Federal Highway Administrators.

The ISTEA contains certain provisions which affect the control as well as acquisition of outdoor advertising signs. The following information is provided for your interim use in assuring that these provisions are implemented by the States as mandated by Congress.

1. **Illegal signs.**—Section 1046(b) requires the removal of any sign along the Interstate System or the Federal-aid primary system which was not lawfully erected. The sign owner must remove such sign within 90 days of enactment of the ISTEA at own expense, or if not removed by the sign owner, the State must remove the sign and the sign owner will be liable to the State for this removal cost.

Comment: The 90-day period started on December 18, 1991. Division offices should notify States promptly, particularly those with high numbers of illegal signs. Failure of a State to assure that this provision is met may trigger the withholding of highway construction funds. We recognize that State law and/or procedures may inhibit timely State actions in some cases. This will be addressed in more formal guidance in the near future.

Attached is a copy of the 1990 summary report indicating the States with illegal signs remaining. The 1991 summary report should be available by February 1, 1992.

2. **Scenic Byway Prohibition.**—Section 1046(c) is a new provision that prohibits new

signs adjacent to those portions of an Interstate or primary highway (other than exempt signs) that is designated a scenic byway.

Comment: Since this provision also took effect on December 18, States that have scenic byways on the Interstate and primary highway systems should consider withholding the issuance of permits for new signs until it is determined whether such highways are to be included in the term "designated scenic byway."

3. **Controlled highways.**—This includes the Interstate System, roads that were on the Federal-aid primary system as it existed on June 1, 1991, and any highway which is not included above but which will be on the National Highway System (NHS). Congress has until September 30, 1995, to enact a law approving a designated NHS. Until then, outdoor advertising controls will apply only to the Interstate System and the Federal-aid primary system as it existed on June 1, 1991.

Comment: The intent is to insure that as a minimum the controls in effect now will remain in effect until the NHS is identified.

4. **Funding eligibility.**—Section 1046(a) establishes Federal-aid eligibility of 23 U.S.C. 104 funds for the removal of nonconforming signs. In section 1007, Surface Transportation Program (STP), subsection (d)(2) provides that 10 percent of the apportioned funds under 23 U.S.C. 104(b)(3) shall only be used for transportation enhancement activities. This term is defined to include "control and acquisition of outdoor advertising."

Comment: States may want to consider giving some priority in the use of STP funds for the acquisition of outdoor advertising signs, especially the nonconforming signs on designated scenic byways, as a means to achieve the 10 percent transportation enhancement activity requirement.

5. **Valuation of signs.**—The Federal law requires the acquisition and removal of nonconforming signs if Federal funds are available. To simplify the valuation of signs and sites and minimize administrative expenses, the development and use of a cost schedule is recommended. The State agency may determine that an appraisal is unnecessary when the valuation problem is uncomplicated and the fair market value of the sign or site is estimated at \$2,500 or less. Although valuation by a schedule or an appraisal will not be required in this instance, an informed judgment must be made by a qualified person and value documentation is to be in writing and retained in the State agency's file.

When an appraisal is necessary, all relevant and reliable approaches to value, consistent with commonly accepted professional appraisal practices must be correctly used. In this regard the sole use of the Gross Rent Multiplier (GRM) to estimate the value of a sign does not meet the intent of 49 CFR 24.103 and 24.104. This method has limited use as a general "rule of thumb." It depends upon the reliability and proper analysis of sales of similar properties that exhibit a high degree of uniformity with respect to location, type, risk and financing (a condition rarely encountered in the case of signs). Where such sales do exist, the market

approach should be applied since it would normally reflect a more accurate estimate of value.

The income approach can constitute an acceptable approach if business related elements are properly considered in the appraisal process.

It is our position that the use of the cost approach will generally reflect the most reliable estimated value due to the special purpose nature of outdoor advertising signs. Further the "Principle of Substitution" provides that the replacement cost of a property typically sets the upper limit of its value.

The Appraisal Standards Board (Appraisal Foundation) has agreed that the Uniform Standards of Professional Appraisal Practice (USPAP) are consistent with the requirements of 49 CFR 24.103 and 24.104. Accordingly, appraisers should adhere to the applicable provisions of Standard Rules 1, 2 and 3 where sign appraisals are involved.

We anticipate issuing an ANPRM shortly on the administration of outdoor advertising under 23 U.S.C. 131 as amended by the ISTEA.

Anthony R. Kane.

Attachment

NATIONWIDE SUMMARY REPORT, NONCONFORMING AND ILLEGAL SIGNS

[Fiscal Year ending September 30, 1990]

Region	State	Nonconforming signs remaining	Illegal signs remaining
1.....	CT	85	36
1.....	ME	0	0
1.....	MA	42	76
1.....	NH	135	0
1.....	NJ	491	105
1.....	NY	2314	452
1.....	PR	0	135
1.....	RI	71	49
1.....	VT	0	2
Subtotal.....		3138	855

NATIONWIDE SUMMARY REPORT, NON- CONFORMING AND ILLEGAL SIGNS—Con- tinued

[Fiscal Year ending September 30, 1990]

Region	State	Nonconforming signs remaining	Illegal signs remaining
3.....	DE	103	32
3.....	DC	0	90
3.....	MD	1450	0
3.....	PA	7688	2601
3.....	VA	2164	0
3.....	WV	47	0
Subtotal.....		11452	2633
4.....	AL	2959	1159
4.....	FL	6584	200
4.....	GA	2563	1359
4.....	KY	677	848
4.....	MS	1077	1416
4.....	NC	3296	0
4.....	SC	1971	0
4.....	TN	3704	0
Subtotal.....		22831	4982
5.....	IL	1950	200
5.....	IN	5340	2602
5.....	MI	2989	0
5.....	MN	60	32
5.....	OH	3481	51
5.....	WI	10195	0
Subtotal.....		24015	2885
6.....	AR	1060	389
6.....	LA	629	2820
6.....	NM	965	1540
6.....	OK	2494	2539
6.....	TX	7535	1363
Subtotal.....		12683	8651
7.....	IA	461	10817
7.....	KS	5398	480
7.....	MO	3221	342
7.....	NE	1805	257
Subtotal.....		10883	11896
8.....	CO	965	293
8.....	MT	748	48
8.....	ND	359	1091

NATIONWIDE SUMMARY REPORT, NON- CONFORMING AND ILLEGAL SIGNS—Con- tinued

[Fiscal Year ending September 30, 1990]

Region	State	Nonconforming signs remaining	Illegal signs remaining
8.....	SD	3036	111
8.....	UT	0	4
8.....	WY	1642	6
Subtotal.....		6750	1553
9.....	AZ	3514	97
9.....	CA	2884	395
9.....	HI	0	0
9.....	NV	12	0
Subtotal.....		6410	492
10.....	AK	0	131
10.....	ID	142	58
10.....	OR	14	0
10.....	WA	32	38
Subtotal.....		188	227
Total.....		98350	34174

OUTDOOR ADVERTISING CONTROL PROGRAM SUMMARY

[Fiscal year ending September 30, 1991]

Nonconforming Compensable Signs

Signs removed during fiscal year 1991.....	40
Signs removed to date.....	118,951
Signs remaining to be removed.....	92,213
Total signs.....	211,164
Percent signs removed.....	56%

Illegal Noncompensable Signs

Signs removed during fiscal year 1991.....	15,041
Signs removed to date.....	676,686
Signs remaining to be removed.....	22,148
Total signs.....	698,834
Percent signs removed.....	97%

BILLING CODE 4910-22-M

**NATIONWIDE SUMMARY REPORT
NONCONFORMING AND ILLEGAL SIGNS
Fiscal Year ending September 30, 1991**

REGION	STATE	NON-C REMOVED FY 91	NON-C REMOVED TO DATE	NON-C REMAIN	ILLEGAL REMOVED FY 91	ILLEGAL REMOVED TO DATE	ILLEGAL REMAIN
=====	=====	=====	=====	=====	=====	=====	=====
** Region 1							
1	CT	0	124	83	35	8786	11
1	ME	0	2423	0	0	18062	0
1	MA	0	109	42	550	13988	76
1	NH	0	714	118	24	1832	0
1	NJ	0	0	487	223	23944	64
1	NY	0	1767	2324	204	18467	761
1	PR	0	0	0	12	298	152
1	RI	0	8	70	52	821	3
1	VT	0	917	0	30	2270	5
** Subtotal **		0	6062	3124	1130	88468	1072
** Region 3							
3	DE	0	210	103	0	194	92
3	DC	0	0	0	0	5	0
3	MD	0	614	1450	433	23780	0
3	PA	0	8495	7549	388	11816	2213
3	VA	0	733	1942	98	1393	0
3	WV	0	1127	47	245	7772	0
** Subtotal **		0	11179	11091	1164	44960	2305
** Region 4							
4	AL	0	2163	2959	105	2380	889
4	FL	0	2105	3251	7143	105916	200
4	GA	0	1150	2437	144	24817	1273
4	KY	0	2990	677	386	36453	462
4	MS	0	500	1077	64	2123	1352
4	NC	0	1108	3242	144	12835	0
4	SC	0	1889	1906	235	7479	0
4	TN	0	579	3620	24	7666	0
** Subtotal **		0	12484	19169	8245	199669	4176
** Region 5							
5	IL	0	9230	2543	452	24028	143
5	IN	0	1743	5329	10	2376	2592
5	MI	0	6097	2913	538	27285	32
5	MN	0	6637	110	280	11741	12
5	OH	0	3167	3481	253	6599	500
5	WI	0	3111	9369	276	18158	0
** Subtotal **		0	29985	23745	1809	90187	3279

**NATIONWIDE SUMMARY REPORT
NONCONFORMING AND ILLEGAL SIGNS
Fiscal Year ending September 30, 1991**

REGION	STATE	NON-C REMOVED FY 91	NON-C REMOVED TO DATE	NON-C REMAIN	ILLEGAL REMOVED FY 91	ILLEGAL REMOVED TO DATE	ILLEGAL REMAIN
** Region 6							
6	AR	0	1366	1060	125	7131	0
6	LA	0	283	589	55	3414	2968
6	NM	0	317	965	96	694	1444
6	OK	0	2002	2394	116	9747	2423
6	TX	0	9204	7377	318	35546	1387
** Subtotal **		0	13172	12385	710	56532	8222
** Region 7							
7	IA	0	7464	461	0	38633	0
7	KS	0	2903	5093	125	5813	242
7	MO	0	107	3019	82	24499	448
7	NE	0	6363	1719	14	28503	243
** Subtotal **		0	16837	10292	221	97448	933
** Region 8							
8	CO	0	2585	683	209	15545	242
8	MT	0	8041	744	3	4061	45
8	ND	40	2381	319	53	3100	1038
8	SD	0	2251	3056	29	22571	155
8	UT	0	2595	0	1	8163	3
8	WY	0	692	1636	4	4341	2
** Subtotal **		40	18545	6438	299	57781	1485
** Region 9							
9	AZ	0	1544	3528	0	8058	97
9	CA	0	2151	2232	473	5701	300
9	HI	0	6	0	730	1736	0
9	NV	0	778	6	0	1268	0
** Subtotal **		0	4479	5766	1203	16763	397
** Region 10							
10	AK	0	0	0	0	5981	131
10	ID	0	1524	157	124	3266	112
10	OR	0	2027	14	74	5441	0
10	WA	0	2657	32	62	10190	36
** Subtotal **		0	6208	203	260	24878	279
*** Total ***		40	118951	92213	15041	676686	22148

Date: January 10, 1992.

Reply to Attn. of: HFO-30.

Subject: Additional Procedures for Monitoring MCSAP Funding

From: Director, Office of Motor Carrier Field Operations

To: Regional Directors, Office of Motor Carriers Regions 1-10

This past year, we encountered problems with some of the procedures used for tracking MCSAP funding. We note that while the Motor Carrier Safety Manual (M7000.6, Volume 4, Chapter 1, Guidelines for Administration of the MCSAP) includes obligation and reimbursement procedures that States, Division, and Regional Offices must follow, it does not include specific directions on the type of information and paperwork that should be exchanged between Headquarters (State Programs Division) and the Regional offices whenever there is an increase or decrease in MCSAP funding.

In the absence of any other written guidelines, this memorandum establishes procedures to be followed by the Region/Division offices on all future MCSAP funding activities.

- Anytime there is an increase or decrease in MCSAP funding, copies of all related forms—final vouchers, MCSAP-2s or MCSAP-2As—must be forwarded to the State Programs Division along with an informal transmittal memorandum. At a minimum, the information in the transmittal memorandum and attachments should include: the project number assigned to each transaction, the dollar amount of increase or decrease, and the reason for the increase or decrease.

- Each Division Office must make certain all increases and decreases noted on MCSAP-2s and MCSAP-2As, and final vouchers are properly recorded in the Fiscal Management Information System (FMIS). Discrepancies must be reconciled with the Office of Fiscal Services. As a reminder, appropriation 542 funds cannot be entered into the FMIS at the Division level. The FMIS entries for appropriation 542 funds are made by the Office of Fiscal Services when the paperwork is received in the Headquarters office.

- The State Programs Division will issue a Deallocation of Funds memorandum to the appropriate Region whenever funds are deallocated. After receiving the memorandum, the Region/Division should verify the amount of funds and ensure that the amount of funds indicated are in agreement with funds in the FMIS. Notify the State Programs Division immediately if a discrepancy is discovered.

- The Regional Office should receive the Deallocation of Funds memorandum within 3 weeks after the MCSAP-2s, MCSAP-2As, or final vouchers are sent to the State Programs Division.

- Regional offices are responsible for tracking all State expenditure activities, identifying and resolving any discrepancies, and keeping the State Programs Division informed.

We appreciate your cooperation in following these new procedures. If you need additional information on the process, please

contact Ms. Bonnie Simmons at FTS 366-2967.

Michael F. Trentacoste.

Date: January 17, 1992.

Reply to Attn. of: HNG-14.

Subject: Section 1058-1991 Intermodal Surface Transportation Efficiency Act
From: Associate Administrator for Program Development

To: Regional Federal Highway Administrators Federal Lands Highway Program Administrator

Section 1058 of the 1991 Intermodal Surface Transportation Efficiency Act (ISTEA) requires each State to certify annually that a minimum of 2½ percent of the mileage of new or replacement permanent median barriers included in awarded contracts along Federal-aid highways shall be innovative safety barriers.

The following guidelines are intended to clarify the intent and application of this requirement:

1. A median barrier is defined as a longitudinal barrier that is crashworthy on both sides and used to separate vehicular traffic. Generally, median barriers are symmetrical. A roadside barrier installed on the left side of a divided roadway to shield a hazard located in the median (such as a drainage channel, rail line or steep embankment) from traffic in one direction only is not considered a median barrier.

2. Permanent median barrier, in addition to that traditionally so defined, includes moveable barrier systems when these systems are part of an ongoing traffic control system such as reverse flow lanes. It does not include barrier systems used in construction and work zones.

3. Our interpretation of Section 1058 is that it applies only to awarded contracts on Federal-aid projects on the National Highway System.

4. The 1991 ISTEA defines an innovative safety barrier as one which is considered experimental by the Federal Highway Administration (FHWA) or was classified as operational after January 1, 1985. However, the FHWA no longer classifies traffic barriers as experimental or operational but rather leaves this decision to each State highway agency once a barrier is deemed crashworthy. (See Mr. Willett's memorandum dated October 9, 1991, "Use of Experimental Traffic Barriers on Federal-aid Highway Projects.") Therefore, for purposes of this section, an innovative median barrier is one which (1) is considered experimental by a State; or (2) is not already in use (or is in limited use) by that State and differs significantly in material, size, shape, performance/test level, or operational characteristics from median barriers in common use elsewhere.

5. Proprietary median barrier systems must be procured pursuant to existing Federal-aid requirements contained in 23 CFR 635.411.

6. Each FHWA division office should coordinate with the State highway agency to ensure the annual certification report indicates the total mileage of median barriers installed and the mileage, by type, of

innovative barrier. The first such report shall be submitted to this office by March 31, 1993, and shall cover contracts awarded during calendar year 1992.

Any questions pertaining to Section 1058 may be addressed to Mr. James Hatton of my staff at FTS 366-1329 or Mr. Richard Powers at 366-1320.

Anthony R. Kane.

Date: October 9, 1991.

Reply to Attn. of: HNG-14.

Subject: Use of Experimental Traffic Barriers on Federal-aid Highway Projects

From: Director, Office of Engineering

To: Regional Federal Highway Administrators Federal Lands Highway Program Administrator

An experimental barrier is defined as "a barrier that has performed satisfactorily in full-scale crash tests and promises satisfactory in-service performance." An operational barrier is "a barrier that has performed satisfactorily in full-scale crash tests and has demonstrated satisfactory in-service performance." It has been and continues to be the Federal Highway Administration (FHWA) policy that barriers classified either as experimental or operational are acceptable for use on Federal-aid highway projects, the only restrictions being those for product selection or use of proprietary products as found in 23 CFR 635.411.

In practice, this policy has come to be generally interpreted as requiring that experimental traffic barriers, particularly terminals and crash cushions, be installed as experimental features and that they remain in that status until FHWA accepts a passing in-service evaluation. This interpretation has tended to limit the installation of new barriers to only a few; thus giving them very little exposure and requiring a lengthy period to accumulate statistically valid experience. While information obtained from the in-service evaluations has proven useful and under FHWA's Special Experimental Project Program the reporting time and format for in-service evaluations have been reduced significantly to encourage participation, it nevertheless still seems that this process has slowed the introduction and significant use of new, completely and successfully crash tested barriers. The "experimental" label appears to indicate to some that a barrier may not be crashworthy when in fact it is.

The Office of Engineering will continue to evaluate the design details, specifications, and crash tests results for proposed new traffic barriers and to establish their acceptability for use on Federal-aid highway projects. However, the decision whether FHWA accepted traffic barriers should be deployed as "experimental" or "operational" should be made by the States. Either way, the FHWA has already established their acceptability for Federal-aid projects. Regardless of how a State chooses to deploy new barriers, in-service evaluations are still important and we strongly urge that all safety features, not only barriers, receive continual review and evaluation to ensure they are performing satisfactorily. This will allow us

to gain wider and quicker deployment of promising new barrier technology and as a result, obtain better operational information on the practical aspects of construction, maintenance, and most importantly, performance under field conditions.
Thomas O. Willett.

Date: January 23, 1992.

Reply to Attn. of: HNG-12.

Subject: Allocation of FY 1992 Funding for High Priority Segments—Section 1105(f) of the 1991 Intermodal Surface Transportation Efficiency Act (ISTEA) (HNG-12-0192-362-0011)

From: Associate Administrator for Program Development

To: Regional Federal Highway Administrators

Section 1105 of the 1991 ISTEA designated 21 high priority corridors on the National Highway System (NHS) and authorized three types of funding assistance. This assistance consists of (1) \$1,183,160,000 for 29 high priority segments over a 6-year period, (2) \$48 million in discretionary funding for feasibility and design studies over a 6-year period, and (3) a \$200 million revolving loan fund.

Of the high priority segments funds, \$91,732,382 is available for obligation in FY 1992. A total of \$861,156,991 is hereby allocated to the States as shown on the attachment for FY 1992 for 19 of the 29 designated segments. For the eight projects located in multiple States, the allocation is deferred until further coordination takes place with the affected FHWA field offices and States. The coordination will determine if one State will take a lead role and receive the entire allocation or if some split of the funds between the States is needed. A separate memorandum will be issued on this coordination. A separate allocation memorandum will be issued for the Cumberland Gap segment that is being administered by the FHWA Federal Lands Highway Office. The funds for the I-86 Transamerica Highway Feasibility Study will be administered by the FHWA Planning Analysis Division (HEP-23).

The appropriation code for these funds is 362. They are available until expended and not subject to obligation limitation. The Federal share is discussed below. A FMIS project prefix and number for each project have been established and are shown on the attachment.

The following provides a subsection-by-subsection analysis of section 1105 and provides information needed in administering these funds.

1105(a)—Outlines the reasons why Congress decided to give priority to the development of new regional routes in the country.

1105(b)—Describes the purpose of the section that is to help the State to prepare long-range plans and feasibility studies and to construct/reconstruct highways in these corridors on the National Highway System.

1105(c)—Defines the 21 authorized high priority corridors on the National Highway System.

1105(d)—Directs the Secretary to include the 21 corridors in the National Highway System.

1105(e)(1)—Recommends that each State prepare a detailed plan for the funding and completion of upgrading of the highways in each portion of the corridors in their State. While the preparation of these plans is not mandatory, we hope that each State would complete them by January 1, 1993. A copy of each plan should be forwarded to this office, attention HNG-12. This information will be used in preparing appropriate status reports.

1105(e)(2)—Recommends that each State prepare feasibility and design studies, as necessary, for those corridors or portions of it where studies have not been prepared. It also suggests that a feasibility study be prepared for a possible spur serving the southern St. Louis metropolitan area from the Avenue of the Saints corridor. A total of \$48 million in discretionary funding for feasibility studies over a 6-year period is authorized in Section 1105(h).

1105(e)(3)—Allows certification acceptance procedures to be used on the corridors.

1105(e)(4)—Allows the Secretary to use procedures to accelerate the completion of projects in the corridors.

1105(f)—Identifies 29 high priority corridor segments along with the total amount authorized from the Highway Trust Fund for each segment over the 6-year period. These funds cannot be used on another section 1105(f) segment unless specifically authorized by statute.

1105(g)(1)—Suggests that each State prepare a detailed plan for the funding and completion of construction of segments identified in section 1105(f) in their State. While the preparation of these plans is not mandatory, we hope that each State would complete them by January 1, 1993. A copy of each plan should be forwarded to this office, attention HNG-12.

1105(g)(2)—Provides for amounts to be available for obligation on the high priority corridor segments by fiscal year. In FY 1992, 8 percent of the amount authorized for each project by section 1105(f) will be available for obligation by project. However, section 1004, Budget Compliance, requires that the Office of Management and Budget score the budgeting impact of this bill. This scoring has resulted in a reduction in the amount of funds that may be obligated in FY 1992 by \$2,980,418. These funds may be available for obligation in later year(s) if budget restrictions permit. In FY 1993 through FY 1997, an additional 18.4 percent per year of the total amount authorized will be available for obligation.

1105(g)(3)—Provides that the Federal share shall be 80 percent for all projects. However, in accordance with the provisions of section 1021(d), for those high priority corridor segment projects that would be eligible for assistance under 23 U.S.C. 204 or are on a federally owned bridge, the Federal share is 100 percent.

1105(g)(4)—Provides that subject to the provisions of title 23, U.S.C., the State upon request will be delegated responsibility for construction of a project or projects under section 1105(f). It is expected that each project advanced under these procedures will be developed and processed by the State in accordance with all standard Federal-aid procedures, including certification acceptance if applicable.

1105(g)(5)—Establishes the conditions under which a State may use advance construction for all projects under section 1105(f). Specifically, when a State has obligated all funds allocated to it under section 1105(f) for a specific project, it can proceed under advanced construction procedures for that project. The amount of work advanced under this provision must be limited to the State's remaining expected allocation of funds under section 1105(f) for that project. Incremental conversions are permissible as subsequent allocations become available.

1105(g)(6)—Establishes the applicability of title 23, U.S.C., provides contract authority, states the period of availability as being available until expended, and establishes that funds authorized by section 1105(f) are not subject to any obligation limitation.

1105(g)(7)—Amends section 105 of title 23, U.S.C., to allow the States to give funding priority to those projects in the high priority corridors identified under Section 1105(f).

1105(g)(8)—Excludes the California high priority corridor segment funding from California State or local laws relating to the apportionment of funds available for highway construction or improvement.

1105(h)—Authorizes \$48 million in discretionary funding for feasibility and design studies over a 6-year period. A separate memorandum soliciting requests for FY 1992 funding will be issued.

1105(i)—Establishes a revolving loan fund for the high priority corridors and authorizes \$200 million over the FY 1993-1997 period. A separate solicitation memorandum explaining the operation of the fund and soliciting requests for FY 1993 funding will be issued later in this fiscal year.

The Division Administrator should reach agreement with the State on the scope, nature and limits of the highway project(s) to be funded in each designated section 1105(f) segment at an early date. Within 90 days, please provide the following to Mr. Jerry Poston, Chief, Federal-Aid Program Branch, HNG-12: information on the status of the segment, including a functional classification of route, highway numbers, State priority (high, medium, low, opposed), number of miles in the segment, number of miles up to standard, number of miles needed to be upgraded and number of miles on new location, estimated cost of the segment, a map, brief description of the project(s) on which the section 1105(f) funds are to be used, estimated starting and completion dates, estimated total cost, other types of funds to be used, types of work involved, and the estimated funds to be obligated in fiscal years 1992 and 1993 on these projects.

Additional guidance will be issued as required on individual segments after we have reviewed the appropriate Congressional Records and House and Senate reports.

You may call Mr. Jerry Poston at FTS: 366-4652 or Mr. Paul Los at FTS: 366-4654 if you have questions.

By copy of this memorandum, the Office of Fiscal Services, Program Analysis Division, is requested to process this distribution.

Thomas O. Willett for Anthony R. Kane.
Attachment

BILLING CODE 4910-22-M

U. S. DEPARTMENT OF TRANSPORTATION - FEDERAL HIGHWAY ADMINISTRATION

FY 1992 ALLOCATION OF FUNDS FOR SPECIAL PROJECTS AUTHORIZED BY SECTION 1105(f), HIGH PRIORITY SEGMENTS, OF THE INTERMODAL SURFACE TRANSPORTATION EFFICIENCY ACT OF 1991, INCLUDING THE SECTION 1004 REDUCTION

State	Section Project Number	Project Location/Name	FHIS Project Number	Allocation of Funds	
				Project (APPH 362)	State Totals
16 States	24	I-66 Transamerica Highway Feasibility Study	DPS 0024(001)	0	0
FHWA: HFL-1	25	To improve Cumberland Gap Tunnel and for various associated improvements as part of the US-25E Corridor	DPS 0025(001)	0	0
Alabama	2	Upgrading of the East-West Corridor along Route 72 in Alabama	DPS A002(001)	0 *	
	8	Appalachian Regional Corridor X From SR-25 near Fulton, MS to US-31 in Birmingham, AL	DPS 0008(001)	4,589,875	
	9	Appalachian Regional Corridor V from MS State Line near Red Bay to TN State Line north of Bridgeport, AL.	DPS 0009(001)	1,969,305	6,559,180
Arkansas	4	For construction of Highway 412 from Siloam Springs to Springdale, Arkansas	DPS 0004(001)	2,636,077	
	5	For construction of Highway 412 from Springdale to Harrison, Arkansas	DPS 0005(001)	4,341,774	
	14	Construction of US-71 between Fayetteville and Alma, AR as part of North-South Corridor	DPS 0014(001)	7,753,168	
	15	Construction of US-71 from Alma, Arkansas to Louisiana State Line - Arkansas portion	DPS A015(001)	0 *	
	29	Highway 412 from Harrison to Mt. Home	DPS 0029(001)	1,550,634	16,281,653
Arizona	20	For improvements on I-15 and I-40 in Arizona	DPS A020(001)	0 *	0
California	20	For improvements on I-15 and I-40 in California	DPS C020(001)	0 *	0
Georgia	2	Upgrading of the East-West Corridor along Route 72 in Georgia	DPS G002(001)	0 *	0
Iowa	22	For improvements for Avenue of the Saints in Iowa	DPS I022(001)	0 *	0
Indiana	18	Construct a 4-lane highway from Lafayette to Ft. Wayne following existing SR-25 & US-24	DPS 0018(001)	736,551	
	19	Conduct feasibility and economic study to widen US-24 from Ft. Wayne, IN to Toledo, OH	DPS I019(001)	0 *	
	26	To improve Bloomington to Newberry, IN segment of Indianapolis, IN - Memphis, TN corridor	DPS 0026(001)	1,837,501	2,574,052
Louisiana	21	To improve the North-South Corridor from the Louisiana State Line to Shreveport, Louisiana	DPS 0021(001)	2,294,938	2,294,938
Michigan	16	Widen a 60-mile portion of Highway M-59 from Macomb County to I-96 in Howell County	DPS 0016(001)	2,294,938	2,294,938
Minnesota	22	For improvements for Avenue of the Saints in Minnesota	DPS M022(001)	0 *	0
Mississippi	2	Upgrading of the East-West Corridor along Route 72 in Mississippi	DPS M002(001)	0 *	0
Missouri	3	Improvement of North-South Corridor along Highway 71 in Southwestern, MO	DPS 0003(001)	279,114	
	22	For improvements for Avenue of the Saints in Missouri	DPS M022(001)	0 *	279,114

U. S. DEPARTMENT OF TRANSPORTATION - FEDERAL HIGHWAY ADMINISTRATION

FY 1992 ALLOCATION OF FUNDS FOR SPECIAL PROJECTS AUTHORIZED BY SECTION 1105(f), HIGH PRIORITY SEGMENTS, OF THE INTERMODAL SURFACE TRANSPORTATION EFFICIENCY ACT OF 1991, INCLUDING THE SECTION 1004 REDUCTION

State	Section Project Number	Project Location/Name	FHIS Project Number	Allocation of Funds	
				Project (APPM 362)	State Totals
Nebraska	7	Conduct a feasibility study of an expressway from Rapid City to Scotts Bluff, Nebraska	DPS N007(001)	0 *	0
	17	To improve the Heartland Expressway from Rapid City to Scotts Bluff, Nebraska	DPS N017(001)	0 *	
Nevada	20	For improvements on I-15 and I-40 in Nevada	DPS N020(001)	0 *	0
New York	30	Improvements on Route 219 between Springville to Ellicottville in New York State	DPS 0030(001)	736,551	736,551
North Carolina	13	Constructing new highway from Rocky Mount to Elizabeth	DPS NC13(001)	0 *	0
Ohio	19	Conduct feasibility and economic study to widen US-24 from Ft. Wayne, IN to Toledo, OH	DPS 0019(001)	0 *	0
Pennsylvania	1	For upgrading US-220 High Priority Corridor between State College and I-80	DPS 0001(001)	3,930,856	15,405,544
	6	To improve US-220 to a 4-lane limited access highway from Bald Eagle northward to US-322	DPS 0006(001)	11,474,688	
South Dakota	7	Conduct a feasibility study of an expressway from Rapid City to Scotts Bluff, Nebraska	DPS SD07(001)	0 *	0
	17	To improve the Heartland Expressway from Rapid City to Scotts Bluff, Nebraska	DPS SD17(001)	0 *	
Tennessee	2	Upgrading of the East-West Corridor along Route 72 in Tennessee	DPS T002(001)	0 *	0
Texas	15	Construction of US-71 from Alma, Arkansas to Louisiana State Line - Texas portion	DPS T015(001)	0 *	0
Virginia	13	For Upgrading I-64 & Route 17 in Virginia	DPS V013(001)	0 *	1,318,039
	28	Construction of Danville Bypass on Route 29 Corridor	DPS 0028(001)	1,318,039	
Washington	27	US-395 improvements from US Canadian border to Oregon State Line	DPS 0027(001)	4,225,477	4,225,477
West Virginia	10	Construction of Shawnee Project from 3-Corner Junction to I-77 as part of I-73/74 Corridor	DPS 0010(001)	348,893	9,187,505
	11	Widening US-52 from Huntington to Williamson, WV as part of I-73/74 Corridor Project	DPS 0011(001)	7,753,168	
	12	Replacement of US-52 from Williamson, WV to I-77 as part of I-73/74 Corridor Project	DPS 0012(001)	1,085,444	
Totals:				61,156,991	61,156,991

A:\F921105.WK1 Note: * No allocations made for Multi-State or FHWA segments at this time.

13-Jan-92

HNG-12

BILLING CODE 4910-22-C

Date: January 27, 1992.

Reply to Attn. of: HHS-21.

Subject: Motorcycle Helmet and Occupant Restraint Incentive Program.
From: Associate Administrator for Safety and System Applications, Washington, D.C. 20590.

To: Regional Administrators.

Attached for your information is a copy of the letter sent to the Governor of each State explaining the new incentive grant program designed to promote the passage of and compliance with safety belt and motorcycle helmet use laws provided in Section 1031 of the Intermodal Surface Transportation Efficiency Act of 1991 (23 U.S.C. 153).

The table attached to the letter shows the amount each State would receive if all States qualify for incentives the first year.

Application procedures are being developed for use by the Governors' Representatives.

R. Clarke Bennett for Dennis C. Judycki.

Attachment:

January 17, 1992.

Identical Letter to all Governors.

Dear:

The National Highway Traffic Safety Administration (NHTSA) is pleased to announce the establishment of a new Federal incentive grant program designed to promote the passage of and compliance with safety belt and motorcycle helmet use laws. This three-year incentive program was created through Section 153 of the Intermodal Surface Transportation Efficiency Act of 1991 (the Act), signed into law by President Bush on December 18, 1991.

We are sending advance notice of the availability of these funds to provide you an early opportunity to take any actions necessary to assure that your State qualifies for this important program as soon as possible.

To qualify for funding in the first year, a State must have in effect both a law requiring individuals on a motorcycle to wear helmets and a law requiring individuals in the front seat of a passenger vehicle to wear safety belts or be secured in child passenger safety systems. In the two subsequent years, there are usage rate requirements. After FY 1994, the Act provides penalties for each year that a State does not have both a safety belt and a motorcycle helmet law in effect.

As of this date, we have determined that [specific dollar amount] in incentive grant funds are available for your State in FY 1992, contingent on approval of an acceptable grant application which specifies relevant State laws and program plans. Further, each grant recipient may receive additional funds at the end of the fiscal year if undistributed grants funds are available. Application procedures are now being developed and will be forwarded to your Highway Safety Representative upon completion.

NHTSA views this incentive funding as a means to broaden State efforts already underway to achieve President Bush's national goal of 70 percent safety belt use by the end of 1992. We are confident that the assistance provided to the States under this incentive grant program can significantly

reduce highway fatalities and injuries, thus, greatly improving safety on our Nation's highways.

Sincerely,

Jerry Ralph Curry.

FY 1992 SECTION 153 INCENTIVE GRANT PROGRAM

[Available Federal Incentive Grant Funds Contingent on Approval of State Application]

State	
ALABAMA ¹	\$314,237
ALASKA	87,610
ARIZONA ¹	227,135
ARKANSAS ¹	210,534
CALIFORNIA ¹	1,490,375
COLORADO	244,549
CONNECTICUT	194,009
DELAWARE	87,610
FLORIDA ¹	655,847
GEORGIA ¹	419,759
HAWAII	87,610
IDAHO	118,184
ILLINOIS	781,406
INDIANA ¹	404,114
IOWA	283,741
KANSAS	275,428
KENTUCKY ¹	278,959
LOUISIANA ¹	296,841
MAINE ¹	87,610
MARYLAND	264,752
MASSACHUSETTS	355,201
MICHIGAN ¹	642,081
MINNESOTA	366,869
MISSISSIPPI ¹	218,194
MISSOURI ¹	402,976
MONTANA	121,167
NEBRASKA	187,443
NEVADA	93,053
NEW HAMPSHIRE	87,610
NEW JERSEY	446,010
NEW MEXICO	130,849
NEW YORK	1,094,812
NORTH CAROLINA ¹	428,290
NORTH DAKOTA	129,817
OHIO ¹	722,406
OKLAHOMA ¹	288,767
OREGON ¹	247,675
PENNSYLVANIA	784,632
RHODE ISLAND	87,610
SOUTH CAROLINA	242,455
SOUTH DAKOTA	117,959
TENNESSEE ¹	345,586
TEXAS ¹	1,115,709
UTAH	127,671
VERMONT	87,610
VIRGINIA	369,397
WASHINGTON	317,846
WEST VIRGINIA	145,721
WISCONSIN ¹	380,132
WYOMING	87,610
DIST OF COL.	87,610
PUERTO RICO	188,140

¹ Minimum allocation States.

Date: January 28, 1992.

Reply to Attn. of: HNG-12.

Subject: Implementing Guidance—Project Review, Oversight and Administration under the ISTEA of 1991.

From: Executive Director.

To: Regional Federal Highway Administrators.

Under section 1016, Program Efficiencies, of the Intermodal Surface Transportation Efficiency Act (ISTEA) of 1991, a State has considerable flexibility in establishing the

degree to which the FHWA will be involved in the development of Federal-aid highway projects.

The attached paper describes the FHWA role in project review, oversight and administration including the various options available to a State. The framework for FHWA's role recognizes that with an expanding program and the increased capabilities of the States, it is time to share more of the project review, oversight and administration responsibilities with the States.

With this in mind, the States should be strongly encouraged to accept the maximum degree of flexibility available for project review, oversight and administration consistent with their individual capabilities. I am requesting that each Division Administrator meet with their respective States to discuss and encourage full participation in the options available.

E. Dean Carlson.

Attachment

Project Review, Oversight and Administration

Under the Intermodal Surface Transportation Efficiency Act (ISTEA) of 1991 (Section 1016 Program Efficiencies), project review, oversight and administration will vary depending on whether a project is on or off the National Highway System (NHS) and options a State may select.

—For NHS projects which are exempted from FHWA review and oversight at the request of the State, such exemption covers design monitoring, PS&E approval, concurrence in award, and construction monitoring but does not relieve a State from following FHWA requirements.

—For non-NHS projects a State may follow State law, regulations, and directives for developing and approving project designs, overseeing projects and administering contracts just as it would for State funded projects but does not have to follow FHWA requirements that pertain to accomplishing these functions.

—For both NHS and non-NHS projects, a State is not exempt from FHWA project review and oversight of any non-Title 23 Federal requirements.

—In all cases, the FHWA reserves the right to conduct process reviews as appropriate.

1. Interstate System Projects (funded with Interstate completion funds)

- The FHWA will be involved in PS&E approval, concurrence in award and appropriate construction monitoring of all projects regardless of size.

- Obligation of Funds

—Funds will be obligated on a project-by-project basis.

2. Interstate System Projects (any funding source other than Interstate completion funds)

- New Construction and Reconstruction Projects

—If the project cost is \$1 million or greater the FHWA will be involved in PS&E approval, concurrence in award and appropriate construction monitoring.

—If the project cost is less than \$1 million:

- The FHWA will be involved in PS&E approval, concurrence in award and appropriate construction monitoring, or
- The State may elect to exempt itself from FHWA project review and oversight. Such election must be on an all or nothing basis rather than on a project-by-project basis (revised 23 U.S.C. 106(b)(2)). This does not preclude a State from requesting FHWA technical assistance on individual project issues.

• 3R Projects

- The FHWA will be involved in PS&E approval, concurrence in award and appropriate construction monitoring, or
- The State may elect to exempt itself from FHWA project review and oversight on a project-by-project basis provided it certifies that all work will meet or exceed standards approved by the Secretary (revised 23 U.S.C. 106(b)(1)), or

- If the project cost is less than \$1 million, the State may elect to exempt itself from FHWA project review and oversight under revised 23 U.S.C. 106(b)(2). Such election must be on an all or nothing basis rather than on a project-by-project basis. This does not preclude a State from requesting FHWA technical assistance on individual project issues.

• Obligation of Funds

- All sources of funds will be obligated on a project-by-project basis for all types and sizes of projects.

3. Non-Interstate National Highway System (NHS) Projects (any funding source)

• New Construction and Reconstruction Projects

- If the project cost is \$1 million or greater the FHWA will be involved in PS&E approval, concurrence in award and appropriate construction monitoring.

- If the project cost is less than \$1 million:

- The FHWA will be involved in PS&E approval, concurrence in award and appropriate construction monitoring, or
- The State may elect to exempt itself from FHWA project review and oversight. Such election must be on an all or nothing basis rather than on a project-by-project basis (revised 23 U.S.C. 106(b)(2)). This does not preclude a State from requesting FHWA technical assistance on individual project issues.

• 3R Projects

- The FHWA will be involved in PS&E approval, concurrence in award and appropriate construction monitoring, or
- The State may elect to exempt itself from FHWA project review and oversight on a project-by-project basis provided it certifies that all work will meet or exceed standards approved by the Secretary (revised 23 U.S.C. 106(b)(1)), or

- If the project cost is less than \$1 million, the State may elect to exempt itself from FHWA project review and oversight under revised 23 U.S.C. 106(b)(2). Such election must be on an all or nothing basis rather than on a project-by-project basis. This does not preclude a State from requesting FHWA technical assistance on individual project issues.

- Notwithstanding any of the above, the State may elect to administer all non-Interstate NHS projects under the Certification Acceptance (CA) procedures of 23 U.S.C. 117.

• Obligation of Funds

- All sources of funds will be obligated on a project-by-project basis for all types and sizes of project.

4. Non-NHS Projects (regardless of funding source)

• All types and sizes of projects

- The FHWA will be involved in PS&E approval, concurrence in award and appropriate construction monitoring, or
- The State may elect to exempt itself from FHWA project review and oversight. Such election must be on an all or nothing basis rather than on a project-by-project basis (revised 23 U.S.C. 106(b)(2)). This does not preclude a State from requesting FHWA technical assistance on individual project issues, or

- The State may elect to administer non-NHS system projects under the CA procedures of 23 U.S.C. 117.

- The State may elect to administer non-NHS system projects under the CA procedures of 23 U.S.C. 117.

• Obligation of Funds

- Surface Transportation Program (STP) funds will be obligated on a project-by-project basis for projects subject to FHWA review and oversight.

- STP funds shall be obligated on a quarterly basis for those projects exempt from FHWA review and oversight under revised 23 U.S.C. 106(b)(2).

- STP fund shall be obligated on a quarterly basis for those projects administered under CA.

- Projects funded with non-STP funds will be obligated on a project-by-project basis even if exempted from FHWA review and oversight.

- Detailed project data will be requested as necessary for work not obligated on a project by project basis.

5. General

• FHWA Final Inspection/Final Acceptance

- For projects subject to FHWA review and oversight, FHWA final inspections/final acceptance will continue to follow existing Title 23 requirements.

- For projects exempt from FHWA review and oversight under revised 23 U.S.C. 106(b), FHWA final inspections/final acceptance not required.

- For projects administered under CA, FHWA final inspections/final acceptance based on requirements in revised 23 U.S.C. 117(b).

• Standards

- All NHS projects follow FHWA approved AASHTO design and construction standards except for NHS non-freeway 3R projects where individual State developed standards approved by FHWA field offices may be used.

- All non-NHS projects follow individual State approved standards.

Date: January 28, 1992.

Reply to Attn. of: HEP-12.

Subject: INFORMATION: National Recreational Trails Funding Program.

From: Associate Administrator for Program Development.

To: Regional Federal Highway Administrators, Federal Lands Highway Program Administrator.

Section 1302 of the Intermodal Surface Transportation Efficiency Act of 1991 establishes the National Recreational Trails Funding Program. The legislation authorizes \$30 million per year for the program through FY 1997; however, funds were not appropriated for FY 1992. We understand that Senator Symms, the principal sponsor of the National Recreational Trails Fund Act, intends to sponsor a technical amendment to place the program under contract authority. We will keep you advised on the status of funding for this program.

Responsibility for the National Recreational Trails Funding Program has been assigned to the Planning and Programming Branch (HEP-12). Although funding may not be available this year, efforts are underway to develop procedures for implementing the program, including establishing a National Recreational Trails Advisory Committee, also required by the legislation. We will let you know more about procedures for administering this program as soon as we can. In the interim, questions regarding the program should be directed to either Mr. Tom Weeks, Chief, Planning and Programming Branch, (FTS) 366-5002 or Mr. John Fegan, FHWA Bicycle Manager, (FTS) 366-5007.

Thomas O. Willett for Anthony R. Kane.

Date: January 28, 1992.

Reply to Attn. of: HEP-12.

Subject: ACTION: Description of Bicycle and Pedestrian Coordinators within State Departments of Transportation.

From: Associate Administrator for Program Development.

To: Regional Federal Highway Administrators Federal Lands Highway Program Administrator.

Over the last year and a half, FHWA has taken a leadership role in encouraging consideration of the needs of bicyclists and pedestrians by States and localities in highway projects. The new Intermodal Surface Transportation Efficiency Act (ISTEA) offers increased opportunities for accommodating bicyclists and pedestrians as legitimate users of the transportation system.

Section 1033 of the new legislation requires the creation of a bicycle and pedestrian coordinator position within each State Department of Transportation. Federal funding for this position may be derived from funds available from apportionments made under sections 104(b)(2), Surface Transportation Program, or 104(b)(3), Congestion Mitigation and Air Quality Improvement Program.

Each State, in consultation with the division offices, should initiate recruitment actions to fill this position. Where States already have bicycle/pedestrian coordinators in place, no further action is required to fill the bicycle/pedestrian coordinator position. In these cases, funds authorized by 23 U.S.C. 104(b)(2) or 104(b)(3) may be used for the

position. In the remaining States, the bicycle/pedestrian coordinator position should be established and filled as soon as possible. We strongly encourage States to consider establishing a full-time bicycle and pedestrian coordinator position; however, we recognize that a full-time position may not be necessary in some States.

The Federal share for funding the bicycle/pedestrian coordinator positions shall be 80 percent with a 20 percent State matching funds requirement. For less than a full-time position, Federal funds would be available for 80 percent of the percentage of the position actually spent on bicycle and pedestrian responsibilities.

The ISTEA states that the responsibilities of the position include:

"promoting and facilitating the increased use of nonmotorized modes of transportation, including developing facilities for the use of pedestrians and bicyclists and public education, promotional, and safety programs for using such facilities.

We have attached copies of a document prepared by the Bicycle Federation of America entitled "Bicycle Coordinators and Programs Why, How, What and Who." We would particularly direct your attention to the chapters "What does a bicycle coordinator do?" and "Who would make a good bicycle coordinator?" We have also attached a listing of the qualities useful for the coordinator and a listing of typical duties. These documents should be passed along to the States for their information.

In addition to the qualifications listed in this publication, an interest in and a commitment to the use of nonmotorized transportation modes is an important qualification for the coordinator position. The coordinator should be a program manager with specific responsibility for bicycle and pedestrian programs and activities, and have sufficient authority to work effectively with other elements within the State.

We would ask that each FHWA division office inform us of the name of the present bicycle and pedestrian coordinator for each State or the new individual as soon as these positions are filled. Please forward this information to Mr. Tom Weeks, Chief, Planning and Programming Branch, (HEP-12). Anthony R. Kane.

Attachments

Typical Duties of State Pedestrian & Bicycle Coordinator

A. Plan and manage new programs in the areas of non-motorized accommodations, safety, educational materials, enforcement materials, courses, and recreation.

B. Assist in development of State and MPO level bicycle and pedestrian facility plans.

C. Develop safety and promotional information through printed materials, videos, TV spots, press releases, interviews, and promotional activities.

D. Develop guidelines to assist all metropolitan areas in developing a comprehensive pedestrian/bicycle plan and provide assistance to local jurisdictions in the development of plans and programs.

E. Develop (or prepare) printed materials such as quarterly newsletters, maps showing

bicycle and pedestrian routes, safety information, and answer inquiries from citizens.

F. Arrange for special displays and events, including conferences, workshops, and other public and technical information presentations.

G. Develop (if necessary), review, and update State's Comprehensive Bicycle and Pedestrian Transportation Plan.

H. Serve as principal contact with Federal, state and local agencies, the press, citizen organizations, and individuals on matters relating to bicycles and pedestrians.

I. Coordinate and maintain budget and forecast budgetary needs.

J. Review projects for conformity with design standards and the state's comprehensive plan as it relates to bicycle and pedestrian facilities.

K. Identify legislative requirements and recommend appropriate changes in state law to facilitate maximum utilization of the bicycle and pedestrian modes for transportation purposes.

L. Maintain current knowledge of sources of funding for program Work with appropriate offices to fully integrate bicycle and pedestrian projects in programming decisions.

M. Serve as bicycle and pedestrian advisory committee member (if applicable).

N. Develop priorities for special studies in areas such as:

1. cause of accidents
2. locations of accidents
3. effectiveness of new facility designs
4. needs analysis
5. barrier removal analysis
6. original and destination surveys

O. Monitor pedestrian and bicycle use, provide recommendations for system improvement and develop usage data.

Typical Qualities of a Successful State Bicycle/Pedestrian Coordinator

1. Commitment to non-motorized means of transportation—interested in the fields of bicycling and walking, and personally supportive of these modes.

2. Technical experience—engineering and/or planning expertise relating to non-motorized travel useful, ability to assimilate technical information readily, problem solver and able to work through administrative as well as the inter-agency political process.

3. Manager—Ability to coordinate contractual agreements; work within a budget; participate in developing training courses, and disseminating information to the general public and other government officials.

4. Good Interpersonal Skills—Effective public speaker, with ability to chair meetings, coordinate contracts with the press and coordinate within various groups and organizations—both inside and outside the State government.

5. Writing skills—Ability to organize thoughts clearly and concisely; understanding of the electronic and print media.

6. People-oriented—Outgoing, a good listener, enjoys mixing with a variety of people and sharing ideas and information.

7. Creativity—Imaginative and possesses initiative to make new program a success.

8. Assertive—Self-confident, enthusiastic person who will build on team developed projects.

Date: January 30, 1992.

Reply to Attn. of: HNG-12.

Subject: ACTION: Request for Projects for FY 1992 Funding for Ferry Boats and Ferry Terminal Facilities (Reply Due: April 30, 1992).

From: Associate Administrator for Program Development.

To: Regional Federal Highway Administrators.

Section 1064 of the 1991 Intermodal Surface Transportation Efficiency Act (ISTEA) created a new discretionary funding category for the construction of ferry boats and ferry terminal facilities. For FY 1992, \$14 million is available from the Highway Trust Fund for this program. Subsequent funding of \$17 million for each of fiscal years 1993, 1994, 1995 and 1996 and \$18 million for FY 1997 is also authorized. These funds are not subject to lapse; however, they are subject to obligation limitation. A proportional share of obligation authority will accompany allocated funds. The Federal share is 80 percent.

We are requesting the States to submit candidate projects for our consideration for funding in FY 1992. As specified in section 1064(d), this program is being administered following the provisions in title 23, U.S.C., that apply to the National Highway System. Accordingly, candidate projects must be for construction of ferry boats and/or ferry terminal facilities on routes that are part of the National Highway System. On an interim basis, this means the routes must be functionally classified as a principal arterial. As provided for in section 1064(e), certain designated routes in North Carolina will be treated as principal arterials for the purposes of this program. Additionally, proposed projects should meet general eligibility criteria found in 23 U.S.C. 129(c) (as redesignated by the 1991 ISTEA).

There is no prescribed format for the States' submissions. There should be adequate information to show the scope and nature of the proposed project; a statement that the project is on a route functionally classified as a principal arterial along with a general description of the type and nature of traffic, both present and future, on the route; the project's overall costs and benefits; the amount of discretionary funds being requested; other funding sources, both Federal and non-Federal, being committed to the project; estimated project time schedules; and any other information that could prove useful in making judgements on the project. We are requesting a single page summary of facts (sample outline attached) be included for each candidate project.

Considering the relatively small sum of funds available, it is suggested a limited number of candidates be submitted by the States. We request that each region rank in priority order the candidate projects submitted by the States. Regional ranking should consider your knowledge of the transportation needs and other relevant factors in the States submitting the projects.

Selection will be based to a large extent on the data contained in the State's submission, regional ranking and supporting information, and a project's ability to expeditiously complete usable facilities within the limited funding amounts available.

Questions should be directed to Mr. Jerry Poston, Chief, Federal-Aid Program Branch (FTS: 366-4652), or Mr. Jack Wasley (FTS: 366-4658) of his staff.

Anthony R. Kane.

Attachment

Summary Sheet

Ferry Boats and Ferry Terminal Facilities
Candidate Project—FY 1992

State:

Location:

Current and Future (year) Traffic:

Nature of Proposed Work:

Purpose (Benefits) of Project:

Amount Requested for FY 1992 and Scope of Work:

Other Funding Sources (Federal/non-Federal) Committed to Project:

Date: January 31, 1992.

Reply to Attn. of: HNG-12.

Subject: Division of Funds for Multi-State High Priority NHS Segments and Demonstration Projects in the 1991 Intermodal Surface Transportation Efficiency Act (ISTEA) (Reply Due: March 2, 1992).

From: Associate Administrator for Program Development.

To: Regional Federal Highway Administrators, Regions 1-9.

In the 1991 Intermodal Surface Transportation Efficiency Act, Public Law 102-240, Congress authorized special funding for 539 highway demonstration projects. Fiscal year (FY) 1992 allocations for 16 of these projects were not made because they involve two or more States. No instructions on the distribution of these funds between the States was provided in the conference report for the 1991 ISTEA.

Attached is a table that contains the project descriptions, participating States, total 6-year funding, and the amounts

available for allocations in FY 1992 for the 16 projects. Five of the projects involve feasibility studies. We are deferring implementation of those projects until some related issues are resolved. However, for the 11 construction type projects, we have decided to give the participating States an opportunity to reach agreement on how the FY 1992 funds will be split between the States. Please advise the States of this process and arrange a meeting between the States if necessary.

Please advise us by March 2, 1992, how the funds are to be split between the States for the construction type projects. If no agreement is reached by the participating States, we will split the funds.

You may call Mr. Jerry Poston at FTS: 366-4652 or Mr. Paul Los at FTS: 366-4654 if you have questions.

Anthony R. Kane.

Attachment

BILLING CODE 4910-22-M

MULTI-STATE HIGHWAY DEMONSTRATION AND HIGH PRIORITY NHS CORRIDOR PROJECTS FUNDING
IN SECTIONS 1004(b), 1105(f), 1106(a), 1106(b), 1107(b) IN THE 1991 ISTEA

S t a t e s	Project Location or Description	6-year Federal Funding from HTF in millions	Available for Allocation in FY 1992	Type of Project Authorized		ISTEA Section Reference Number
				Feasibility Study	Construction	
AL/GA/MS/TN	Upgrading of the East-West Corridor along Route 72	25.40	1,969,305		XXX	1105(f) 2
AR/TX	Construction of US-71 from Alma, Arkansas to Louisiana State Line	70.00	5,427,218		XXX	1105(f) 15
AZ/CA/NV	For improvements on Interstates 15 and 40 in California, Nevada, and Arizona with \$10.5 million set-aside for Nevada	59.20	4,589,875		XXX	1105(f) 20
IA/MN/MO	For improvements for Avenue of the Saints from St. Paul, MN to St. Louis, Missouri	118.00	9,148,737		XXX	1105(f) 22
IL/IN	Lake Porter & LaPort Cos.: Study linkage roads to connect Lake Shore Drive & surrounding facilities	1.00	77,532	XXX		1106(b) 21
IL/MO	East St. Louis: To conduct a study to determine the feasibility of a bridge between East St. Louis, IL. and St. Louis, MO	1.40	108,544	XXX		1104(b) 4
IL/MO	Metro East/St. Louis, Missouri Bridge Feasibility Study	1.00	77,532	XXX		1106(b) 2
IN/OH	Conduct feasibility and economic study to widen US-24 from Ft. Wayne, IN to Toledo, OH	0.32	24,810	XXX		1105(f) 19
MD/PA	Relocate railroad between Hagerstown, MD and Schippensburg, PA to eliminate 23 RR X-ings	14.40	1,116,456		XXX	1107(b) 24
NE/SD	Conduct a feasibility study of an expressway from Rapid City to Scotts Bluff, Nebraska	0.64	49,620	XXX		1105(f) 7
NE/SD	To improve the Heartland Expressway from Rapid City to Scotts Bluff, Nebraska	29.60	2,294,938		XXX	1105(f) 17
NE/SD	Springfield: Construct bridge across Missouri River connecting SD Rt. 37 to NE Hwy. 12	4.70	364,399		XXX	1107(b) 50
NE/SD	Vermillion: Construct bridge across Missouri River	3.60	279,114		XXX	1107(b) 51
NY/VT	Construction of a highway from US-7 North of Bennington southwest to NY-7 in Hoosick, NY	20.00	1,550,634		XXX	1107(b) 146
NC/VA	For Upgrading I-64 & Route 17 & constructing new highway from Rocky Mount to Elizabeth	17.80	1,380,064		XXX	1105(f) 13
NC/VA	Construction of freeway from Rocky Mount to Elizabeth City, upgrade I-64 from Raleigh to Rocky Mount & Route 17 from Elizabeth City to Norfolk	30.00	2,325,950		XXX	1107(b) 199
	Totals:	397.06	30,784,728	5	11	

Date: February 3, 1992.

Reply to Attn. of: HFL-10.

Subject: Information on Allocation of Indian Reservation Roads (IRR) Funds for Construction.

From: Federal Lands Highway Program Administrator, Federal Lands Highway Office, Washington, DC 20590.

To: Federal Lands Highway Division Engineers, Regional Federal Highway Administrators.

The Intermodal Surface Transportation Efficiency Act of 1991 authorized \$159 million for IRR for FY 92. Funds are allocated, based on an administratively determined formula, to the twelve Bureau of Indian Affairs (BIA) area offices. Using their transportation plans, the tribal governments, in cooperation with the BA area offices, develop a program of projects within available funds.

Several States and FHWA field offices have requested information on the IRR program. Attached for your information and use is a list showing the distribution of FY 92 IRR construction funds by State area. This is based upon the program of projects developed by tribal governments and the BIA, and approved by the Federal Lands Highway Office.

Funds for FHWA and BIA administration, planning, research, and special studies are not included in the listed allocations.

Thomas O. Edick.

Attachment

FY 1992—DISTRIBUTION OF IRR CONSTRUCTION FUNDS BY STATE

State	Funds (X1000)
Alaska.....	\$9,106
Arizona.....	39,815
California.....	2,584
Colorado.....	1,602
Florida.....	998
Idaho.....	2,249
Iowa.....	106
Kansas.....	1,409
Louisiana.....	205
Maine.....	335
Michigan.....	837
Minnesota.....	2,822
Mississippi.....	596
Montana.....	11,304
Nebraska.....	216
Nevada.....	5,042
New Mexico.....	21,994
New York.....	138
North Carolina.....	681
North Dakota.....	2,038
Oklahoma.....	11,527
Oregon.....	3,224
Rhode Island.....	75
South Dakota.....	11,079
Texas.....	1
Utah.....	3,281
Washington.....	5,041
Wisconsin.....	1,864
Wyoming.....	953
Total.....	\$141,122

Subject: Information: Emergency Relief (ER) Program—Implementation of Intermodal Surface Transportation Efficiency Act (ISTEA) of 1991.

From: Associate Administrator for Program Development.

To: Regional Federal Highway Administrators, Federal Lands Highways Program Administrator.

The ISTEA of 1991 made several changes to the provisions which are applicable to the ER program in Title 23, U.S.C. These changes became effective on December 18 when the President signed the ISTEA of 1991 into law. These changes will be incorporated in the ER regulation, 23 CFR part 668A, which will be amended in the near future.

This memorandum is intended to provide interim guidance for the continued implementation of the ER program as amended by the ISTEA of 1991. The major changes are given below.

Eligibility

Section 1006 of ISTEA redefined the Federal-aid systems as the Interstate System and National Highway System (NHS). This redefinition inadvertently made projects on other Federal-aid highways not eligible for the use of ER funds because 23 U.S.C. 125(b) was not conformed to the changes made in the ISTEA of 1991. A technical amendment has been proposed to conform 23 U.S.C. 125(b). In the meantime, for disasters or catastrophic failures which have occurred after the passage of the ISTEA of 1991, it is recommended that damage assessments and filed reports be prepared as if all Federal-aid highways (this means highways other than those functionally classified as local or rural minor collectors) are eligible for ER assistance.

Federal share

The Federal share payable on account of any ER project shall not exceed the Federal share payable on a project as provided in 23 U.S.C. 120(e) as amended by section 1021(b)(3) of the ISTEA. Generally, this means that the Federal share is 90 percent on the Interstate System and 80 percent on other Federal-aid highways, adjusted for appropriate sliding scale. The Federal share for the territories and federally owned roads continues to be 100 percent.

Extension of Time Period for Emergency Repairs

The time period for 100 percent Federal share for eligible emergency repairs to minimize damage, protect facilities, or restore essential traffic accomplished after the actual occurrence of the natural disaster or catastrophic failure is extended from 90 days to 180 days.

Applicability

The changes described above shall only apply to natural disasters and catastrophic failures occurring after the date of enactment of the ISTEA of 1991, which was on December 18, 1991. The eligibility of ER funding for disasters or catastrophic failures which occurred prior to the passage of the ISTEA of 1991 will continue to be governed by the law and implementing regulations in effect prior to December 18.

Dollar Limitation for Territories

The limit of total obligations for ER projects in any fiscal year in the Virgin Islands, Guam, American Samoa, and the Commonwealth of Northern Mariana Islands is increased from \$5 million to \$20 million. This change is applicable beginning with fiscal year 1992.

Questions concerning this memorandum should be directed to Mr. Jerry Poston, Chief, Federal-Aid Program Branch at FTS 366-4652, or Mr. Mohan Pillay at FTS 366-4655, of his staff.

Anthony R. Kane.

Date: February 6, 1992.

Reply to Attn. of: HNG-33.

Subject: ACTION: Highway Timber Bridge Research and Demonstration Program.

From: Associate Administrator for Program Development.

To: Regional Federal Highway Administrators.

Section 1039 of the Intermodal Surface Transportation Efficiency Act (ISTEA) of 1991 provides a program for research, technology transfer and construction grants for timber bridges. This memorandum issues interim guidelines only for the construction grant provisions.

Applications for the bridge construction grants are to be submitted to the FHWA by the States, and are to meet the replacement eligibility criteria of the Bridge Program, 23 U.S.C. 144. Replacement bridges must be of structural timber regardless of the type of bridge being replaced. The bridges are to be located on rural Federal-aid highways (Coding Guide Item 26 coded as 01, 02, 06, 07).

The applicant bridges will be assessed using the following criteria:

(A) Bridge designs which have both initial and long-term structural and environmental integrity.

(B) Bridge designs which utilize timber species native to the State or region.

(C) Innovative bridge designs which have the possibility of increasing knowledge, cost effectiveness, and future use of such designs.

(D) Environmental practices for preservative treated timber, and construction techniques which comply with all environmental regulations, will be utilized.

Project cost and an obligation schedule, by fiscal year quarter, are also requested. The timber designs for bridge projects on the National Highway System (NHS) are to meet applicable AASHTO Standard Specifications for Highway Bridges. Non-NHS timber bridges may be designed in accordance with individual State approved standards.

Eligible costs are construction costs (including construction engineering) but preliminary engineering and right-of-way costs are to be excluded. Costs for approach roadways (sufficient to render the bridge serviceable) and incidental non-bridge items may be included but these should be limited to no more than 10 percent of the total project cost. Because of the limited funding for this program, cost overruns and claim settlements will be funded from other sources, and grant funds are not to be held for these purposes.

Date: February 6, 1992.

Reply to Attn. of: HNG-12.

The allocations will be made to the States as a one-time allocation at a Federal share of 80 percent, and assurance will be needed that the funds will be obligated within the fiscal year. Every effort will be made to administer the program from a balanced national perspective.

Please request States in your region to make application following these interim guidelines. Combined research and construction grant applications will not be accepted. The States should use the attached form, and submit a current Structural Inventory and Appraisal (SI&A) sheet for the bridge supplemented with other information as they may choose. Your office and the divisions are requested to concur in the applicant projects and obligation schedules, and to reject those applications not meeting the guidelines. You are also requested to rank the applications on how well the bridge projects meet the above noted criteria. A bridge meeting all four criteria would be ranked higher than one meeting a lesser number. Please transmit the ranked projects to the Bridge Management Branch (HNG-33) prior to April 15, 1992. That branch may be contacted at (202) 366-4617 if additional information is needed.

Anthony R. Kane.

Attachment

Highway Timber Bridge Research and Demonstration Program

Application for Timber Bridge Construction Grant

1. Location of time bridge project:
State _____
County _____
City/Town (if applicable) _____
2. Brief description of the scope of the project including a description of the timber bridge type.
3. Project Construction costs:
Bridge _____
Approach roadway _____
Incidental non-bridge _____
Total Timber Bridge Constr. Cost _____
Federal Construction grant requested (Not to exceed 80% of total cost) _____
Obligation Schedule (FY quarter) _____
4. Describe how the bridge satisfies each of the following criteria:
(A) Bridge designs which have both initial and long-term structural and environmental integrity.
(B) Bridge designs which utilize timber species native to the State or region.
(C) Innovative bridge designs which have the possibility of increasing knowledge, cost effectiveness, and future use of such designs.
(D) Environmental practices for preservative treated timber, and construction techniques which comply with all environmental regulations, will be utilized.
5. Signatures:
For State: _____
Date _____
For Division: _____
Date _____
For Region: _____
Date _____

Date: February 6, 1992.
Reply to Attn. of: HHS-20.

Subject: Summary of Safety Provisions of the Intermodal Surface Transportation Efficiency Act of 1992.

From: Associate Administrator for Safety and System Applications, Washington, DC 20590.

To: Regional Federal Highway Administrators.

Attached is a summary of the safety related features of the new bill. It is intended to be a general summary and does not include implementing instructions or guidance. Generally, the new legislation continues the concepts of the State and community safety program and funding for safety construction as well as establishing a safety management requirement. The bill also contains a number of unique provisions related to safety that will impact FHWA's responsibilities that we would like to bring to your attention. Examples include:

- Section 2005 requirement for an annual safety report to the Secretary.
- Section 1077 mandated revisions to the MUTCD related to STOP and YIELD signs at railroad grade crossings.
- Section 1010 establishes a new high speed rail corridor program.
- Section 1035 extends the exemption of certain safety reports to the Discovery process.
- Section 1051 establishes a program to improve work zone safety.

The legislation also requires a number of reports and studies related to various safety standards and activities which you might find interesting. All of these items are included in the attached summary. If you have any questions, call Clarke Bennett on FTS 366-1153.

Dennis C. Judycki.

Attachment

Summary of Safety Provisions—Intermodal Surface Transportation Efficiency Act of 1991

On December 18, 1991, President George Bush signed into law the Intermodal Surface Transportation Efficiency Act of 1991. It provides the framework for developing a national intermodal surface transportation system and authorizes funds for highway construction, safety, and mass transit programs. Safety provisions in the ISTEA:

- Provides \$2.4 billion for Highway safety programs from a 10 percent set-aside of funds provided for the Surface Transportation Program (STP).
- Requires a Highway Safety Management System to be implemented by September 1995.
- Encourages States to enforce speed limits, enact motorcycle helmet and safety belt use laws, and implement measures to reduce alcohol-impaired driving.

Summary of Highway Safety Provisions

Safety provisions included in the ISTEA are grouped, in this summary, into five major headings: (1) 402 Highway Safety, (2) Safety Management and Construction Programs, (3) Activities related to the Manual on Uniform Traffic Control Devices, (4) Safety Incentives and Enforcement, and (5) Other Safety Related Items.

402 Highway Safety

Funding

The obligation ceiling for FHWA's 402 Highway Safety Program is established at \$10 million for Fiscal Year 1992 and \$20 million for each of Fiscal Years 1993-1997.

Authorization of Appropriations for FHWA's 402 Program is \$17,000,000 for Fiscal Year 1992 and \$20,000,000 for each of Fiscal Years 1993 through 1997. The obligation limitation of \$10 million for FY 92 sets the real limit for program funding this year.

The NHTSA 402 Program for FY 92 is authorized at \$126,000,000. For FY 93 through 97, \$171,000,000 is authorized which includes funding for incentive programs.

The Alcohol Incentive is funded separately in FY 92 at \$25,000,000. Thereafter, the funding is included in the NHTSA authorizations.

Incentives for helmet and safety belt use is funded at \$17,000,000 for FY 92 and \$24,000,000 for FY 93 and 94.

The National Driver Register is funded at \$4,000,000 annually for FY 92 through FY 94 as a separate funding line item.

Coordination

A requirement contained in the Motor Carrier Safety Grant Program (4001) mandates that each State coordinate the Motor Carrier Safety Grant Plan with the Highway Safety Plan prepared under 23 U.S.C. 402.

New Guidelines

Six additional uniform guidelines are to be designated as new priority areas by the Secretary. If not so designated, the Secretary must explain to Congress why they were not. The new guidelines include speed limits, occupant protection, impaired driving programs, motorcycle safety, school bus safety, and law enforcement service. The Secretary shall establish a highway safety program for the collection and reporting data on traffic-related deaths and injuries by the States. Such criteria shall include, but not be limited to, criteria on deaths and injuries resulting from police pursuits, school bus accidents and speeding, on traffic-related deaths and injuries at highway construction sites, and on the configuration of commercial motor vehicles involved in motor vehicle accidents. The States are required to report these data to the Secretary annually.

Safety Management and Construction Programs

Definition

The definition of a highway safety improvement project in 23 U.S.C. 101(a) is expanded to include the installation of priority control systems for emergency vehicles at signalized intersections.

Eligibility

Highway safety improvements, as well as bicycle transportation and pedestrian walkways, are eligible improvements for funding under the National Highway System Program.

Safety Set Aside

Surface Transportation funds (23 U.S.C. 104(b)(3)) may be used for highway and

transit safety improvements and programs, hazard eliminations, projects to mitigate hazards caused by wildlife, and railway-highway grade crossings. A 10 percent set aside of the Surface Transportation funds, \$353 million in FY 1992, shall only be available for carrying out rail-highway crossing improvements and the hazard elimination program. These funds may be used by the States and localities for projects on any public roads, including the National Highway System (NHS).

In addition to the safety set aside, there is a 10 percent set aside for transportation enhancement activities. Eligible activities include facilities for pedestrians and bicycles and the conversion and use of abandoned railway corridors for pedestrian and bicyclists, among others.

The Federal share may be increased to 100 percent for certain safety projects. Up to 10 percent of the funds apportioned for the Federal-aid systems for any fiscal year under section 104 of title 23 may be used to fund up to 100 percent of project costs for traffic control signalization, pavement marking, commuter carpooling and vanpooling, the installation of traffic signs, traffic lights, guardrails, impact attenuators, concrete barrier end treatments, break away utility poles, and priority control systems for emergency vehicles at signalized intersections. All except priority control systems for emergency vehicles at signalized intersections and breakaway utility poles have been eligible for 100 percent funding previously.

Safety Management

A Safety Management System is one of the six management systems required by the ISTEA. These requirements are contained in a new title 23 section 303, Management Systems, which requires the Secretary to issue regulations within 1 year after enactment for the States to use in developing, establishing, and implementing a system for managing Highway Safety. Identical requirements are included for managing pavement on the Federal-aid system, bridges on and off the Federal-aid system, traffic congestion, public transportation facilities and equipment, and intermodal transportation facilities and systems.

Beginning after September 30, 1995, the Secretary may withhold up to 10 percent of the funds apportioned under this title and under the Federal Transit Act for any fiscal year unless the State is implementing each of the management systems described.

Not later than January 1 of each calendar year beginning after December 31, 1992, the Secretary shall transmit to Congress a report on the progress being made by the Secretary and the States in carrying out this section. The cost of such management systems is eligible under the NHS, the Congestion and Air Quality, and STP ((104(b)(1), (2), or (3)). Section 144 may be used for developing and establishing the bridge management system.

Activities Related to the Manual on Uniform Traffic Control Devices

Signs

The prohibition against using Federal funds for highway signs using the metric system has been lifted (Section 1053).

The Secretary is to encourage the States to provide for equitable participation in the use of tourist-oriented directional signs (TODS) or "logo" signs along the Interstate System and the Federal-aid Primary System. In addition to this encouragement, a study must be completed and reported within 1 year to Congress on the participation in the use of TODS and LOGO signs.

MUTCD

The Manual on Uniform Traffic Control Devices is to be revised within 90 days to authorize States and local governments, at their discretion, to install stop or yield signs at any rail-highway grade crossing without automatic traffic control devices where two or more trains operate across the rail-highway grade crossing each day.

Safety Incentives and Enforcement National Speed Limit

Changes have been made in the National Maximum Speed Limit Compliance Program (1029). The speed limit law is amended to: (1) Make permanent the provisions of the expiring demonstration program allowing a 65 mph speed limit on non-Interstate highways constructed to Interstate standards connected to an Interstate highway posted at 65 mph and located outside an urbanized area; (2) provide for data collection on roads posted at 65 mph as well as 55 mph; and (3) require the Secretary to issue regulations for monitoring and compliance criteria. New compliance requirements provide for the transfer of some highway construction apportionments if a State fails to enforce speed limits in accordance with the section, including noncompliance with a formula that (a) assigns greater weight for violations of such speed limits in proportion to the amount by which the speed of the motor vehicle exceeds the speed limit; and (b) differentiates between the types of road on which speed limit violations occur. This section requires the Secretary, within a year, to publish in the Federal Register a proposed rule to establish speed limit enforcement requirements. A final rule must be published 2 months after the proposed rule, and must include a formula for compliance which:

- Assigns a greater weight for violations of speed limits in proportion to the amount by which the speed of the motor vehicle exceeds the speed limit; and
- Differentiates between the type of road on which the violations occur.

In developing the above compliance formulas, factors relating to enforcement efforts by the States and data concerning fatalities and serious injuries must be considered.

The regulations must ensure uniformity among State monitoring programs, and that devices and equipment used in State monitoring programs are placed at locations that take into account the relative risk of motor vehicle accidents.

An annual report on travel speeds, State enforcement efforts, and speed-related highway safety statistics is required.

An enforcement moratorium is included for Fiscal Years 1990 and 1991. Also, 730 days after the enactment of the Act, the enforcement provisions under the old program will no longer be in effect.

Incentives

A new incentive program was established for Safety Belts and Motorcycle Helmets. This incentive permits the Secretary to provide grants to States that enact motorcycle helmet and safety belt use laws. A first-year grant would require a belt use law and a helmet use law. A second-year grant would require both laws and a use rate of 75 percent for helmets and 50 percent for belts, and a third-year grant would require both laws and a use rate of 85 percent for helmets and 70 percent for belts.

To carry out this program, \$17 million is available for Fiscal Year 1992 and \$24 million for each of Fiscal Years 1993 and 1994. The percentage of the cost of such programs which may be supported with such grants decreases from 75 percent the first year to 50 percent the second and 25 percent the third.

Failure by a State to have motorcycle helmet and safety belt use laws at anytime in 1994 will require the Secretary to transfer 1.5 percent of the State's FY 95 Federal highway apportionments for NHS, Congestion and Air Quality, and STP programs to the State's Section 402 highway safety apportionment. In FY 95 and thereafter, if a State does not have both a helmet and a safety belt use law in effect, the Secretary must transfer 3 percent of these funds apportioned to the State for the succeeding fiscal year to the State's Section 402 highway safety apportionment. Obligation authority is also transferred to 402.

The Secretary is required to conduct a study to determine the benefits of safety belt and motorcycle helmet use for crash victims, provide 90 days for public comment on the proposed study report, and submit a report to Congress on the results of the study within 40 months after the funds (\$5 million) for the study are made available by the Secretary.

Other Safety Related Items

Operation Lifesaver

Funding is continued for the Operation Lifesaver Program which is designed to provide public information and education to help prevent and reduce motor vehicle accidents, injuries and fatalities, and to improve driver performance of rail-highway crossings. Funding for this program has been increased from \$250 thousand to \$300 thousand and is managed nationally through a contract with Operation Lifesaver, Incorporated.

High Speed Rail Corridors Program

A new program has been established for High Speed Rail Corridors. This is a new program which requires the Secretary to set aside \$5 million each year from the Surface Transportation Funds to use for the elimination of hazards at railway-highway crossings in not more than five railway corridors which meet the criteria set forth in this paragraph. This set-aside is in addition to the 10 percent set-aside for highway safety improvements.

Program Efficiencies

Program Efficiencies have been provided which: (1) Allow States to proceed with 3R projects on the National Highway System

(NHS) based on a project-by-project certification that the work will meet or exceed the standards approved for that system; (2) eliminate FHWA PS&E review and approval at the request of the State on all non-NHS projects and any NHS project with an estimated construction cost of less than \$1,000,000; and (3) allow safety considerations on any of the above projects involving phase construction to be met through consistency with an operative safety management system established under 23 U.S.C. 303.

Amendments to 23 U.S.C. 109 Standards requires that the design and construction standards for new construction, reconstruction, and 3R work on multi-lane limited access highways on the National Highway System shall be those approved by the Secretary in cooperation with each State highway department. An additional requirement provides that non-NHS projects shall be designed, constructed, operated and maintained in accordance with State laws, regulations, directives, and standards.

The Secretary is required to conduct and report on a survey of current State standards relating to geometric design, traffic control devices, roadside safety, safety appurtenance design, uniform traffic control devices, and sign legibility and directional clarity for Federal-aid highways. A report to the House and Senate Public Works Committees is due within 2 years, covering the results of the survey, recommendations on the necessity for upgrading to enhance safety, and the crashworthiness of signs, lights, guardrail, barriers, attenuators and poles currently being used.

Legal Concerns

Legal concerns regarding certain reports and surveys should diminish with the new Limitation on Discovery provisions of the ISTEA (1035). These provisions amend 23 U.S.C. 409 "Admission as evidence of certain reports and surveys" to extend the limitation on admission of certain data, reports and surveys into evidence in Federal and State courts to include pre-trial discovery proceedings in any action for damages arising from any occurrence at a location addressed by such information. Previously such reports and surveys could not be admitted into evidence. This section as modified states that such reports and surveys " * * * shall not be subject to discovery or admitted into evidence in Federal or State Court or considered for other purposes in any action for damages arising from any occurrence at a location mentioned or addressed in such reports, surveys, schedules, lists, or data."

Work Zone Safety

A program to improve work zone safety at highway construction sites is required. A primary component shall be enhancing the quality and effectiveness of traffic control devices, safety appurtenances, traffic control plans, and bidding practices for traffic control devices and services.

Methods to Reduce Traffic Congestion during Construction is to be the subject of a study of methods to enhance traffic flow and minimize congestion during construction, and the costs associated with such methods. The

Secretary shall consider such methods as construction during off-peak hours, minimizing lane closures, and provision in each State of a toll-free telephone number for complaints and information. A report to Congress with recommendations is due not later than September 30, 1992.

Roadside Barriers

Section 1058 requires that no less than 2 1/4 percent of the mileage of all new or replacement permanent median barriers included in Federal-aid contracts awarded on the National Highway System by each State in each calendar year shall be innovative safety barriers.

The Secretary is required to initiate within 30 days and complete within 1 year a rulemaking to revise existing guidelines and establish standards for the installation of roadside barriers and other safety appurtenances (1073). Such rulemaking shall reflect the state-of-the-art criteria contained in NCHRP 230, including enhanced levels of performance to accommodate vans, pickup trucks, and 4-wheel drive vehicles. The final rule implementing the revised guidelines and standards shall be applicable to refurbishment and replacement of existing barriers and appurtenances as well as new installations.

Handicapped Parking

Handicapped Parking is emphasized by requiring a study of the progress being made by the States in adopting and implementing the uniform system for handicapped parking, established in regulations published March 11, 1991, as 23 CFR part 1235. These regulations implement Public Law 100-641 (102 stat. 3335) passed by Congress on November 9, 1988, which became effective on April 10, 1991. A report is required within 2 years, and is to be sent to the House Committee on Public Works and to the Senate Committee on Environment and Public Works.

Date: February 6, 1992.

Reply to Attn. of: HTV-11.

Subject: Intelligent Vehicle Highway Systems (IVHS) Program Issues and Status.

From: Associates Administrator for Safety and System Applications, Washington, DC 20590.

To: Regional Administrators.

Growth of the IVHS program within FHWA during FY 1992 will be supported with \$139.8 million in General Operating Expenses provided by the Department of Transportation Appropriations Bill, and \$94 million in contract authority provided by the Intermodal Surface Transportation Efficiency Act (ISTEA) of 1991. This \$233.8 million program is a dramatic increase from the \$20 million which was appropriated to FHWA for IVHS in FY 1991. The ISTEA also established several major new initiatives and/or funding categories, including:

- The IVHS Corridors Program, which has two components. The first calls for designation of 3 to 10 priority urban corridors and the second component covers "other" corridor or area designations. Seventy-one million dollars is provided in FY 1992, and \$86 million per year is authorized for FYs

1993 through 1997. At least 50 percent of these funds must be spent on the 3 to 10 priority urban corridors component.

- Innovative, high-risk project support, which must receive at least 5 percent of the Corridors Program funds.

- An Automated Highway System prototype demonstration.

- Support for other IVHS activities outside of the Corridors Program. Twenty-three million dollars is provided for FY 1992, and \$27 million per year is authorized for FYs 1993 through 1997.

- Technical assistance and planning grants, which focus on implementation and early deployment studies, are encouraged.

- Several specific studies and reports to Congress are required.

The Appropriations Bill directs that we spend \$109 million of the \$139.8 million provided on 19 specific projects, and we intend to fully obligate these funds this year. Copies of the IVHS portions of the Appropriations and ISTEA Bills are attached for your reference.

This larger, more complex IVHS program requires that strong program management policies and procedures be in effect immediately, especially in designing the new ISTEA Corridors Program and in working with the earmarked projects. We have been working hard over the last few weeks to lay out a plan for how we interface these components in the FY 1992 program, and to establish a framework for delivery of the program in the future.

We will be designating 3 to 10 priority urban corridors that meet the criteria established for this program in the ISTEA, and that will advance the IVHS program. Attached is a preliminary list of the selected corridors. You will note that several of the earmarked projects have been included with or designated as priority urban corridor locations. For the corridors within your region, we will be discussing with you the appropriateness of the designations as well as seeking your assistance in setting up the necessary meeting with State and local officials. Discussion at these meetings should also cover any earmarked projects that could appropriately be included within the scope of the priority urban corridor project. With FHWA's appropriations hearings on the FY 1993 program scheduled for March 17 and 19, it will be necessary that these meetings take place as soon as possible.

We would also like to explore the potential of the possible "other" corridor sites listed on the attachment, and will be asking your assistance in setting up meetings with the appropriate State and local officials at these sites as well. We plan to designate at least some of these for the "other corridors" component of the ISTEA. As with the priority urban corridors, we will closely coordinate these selections with you. It is not our intent, however, to fully commit the funds available for the other corridors program to these designated projects. An open solicitation process, as described below, will be used to select additional projects which would also utilize these funds.

Concurrently with development of the corridor program, we have been working with

other Departmental offices to more formally document the process by which other projects will be selected for IVHS program funding. Attached is a copy of the "IVHS Operational Test Selection Process" which describes procedures and criteria which we are now using. This document will be published soon in the *Federal Register*.

Several key points from the selection process document deserve highlighting:

- A solicitation for operational test project proposals will be published annually in the *Federal Register*. This solicitation will outline IVHS technical program areas which DOT is particularly interested in pursuing at the time, according to the IVHS program set forth and described in the National IVHS Strategic Plan. The first solicitation will be published shortly after the "IVHS Operational Test Selection Process" document is published.
- Operational test project selection criteria are included as part of the document. These criteria cover relationship to the National IVHS Strategic Plan, merits of the project design, partnerships formed for the project, and Federal role.
- An Evaluation Panel will be assigned to review each proposal based on the selection criteria. A decision on possible project funding support will be made based on the recommendations of the Panel.

Our plan is to have all operational test funding decisions for FY 1992 made by late summer.

Over the past few months, we have received a number of proposals from States interested in participating in the IVHS program and have initiated the Evaluation Panel review and recommendation process. We are completing our evaluation of these and will advise you of the results as soon as possible. Funding decisions on the proposals found acceptable by the Evaluation Panels will be deferred pending the results of the solicitation process.

The ISTEA limits the contribution of Federal IVHS funds to 80 percent of the total cost of a project. Our current interpretation of this provision is that the 20 percent match must be from non-Federal-aid sources, i.e., private sector contribution, State or local funds, etc. In order to maximize available Federal dollars and to meet the national objectives of the IVHS program we will continue to encourage a 50/50 split in total project costs. Fifty percent contribution by other partners would include the 20 percent "hard match" required under the ISTEA, but the remaining 30 percent may include other Federal-aid funds, including HP&R as well as "soft match" opportunities. The 80/20 funding requirement will also be applied to projects that will receive Congressionally earmarked funding under the FY 1992 DOT Appropriations Act.

An effective IVHS program delivery process for this fiscal year will require a high degree of cooperation and coordination among FHWA Headquarters, region, and division offices. We will keep you informed of progress on the issues discussed above, and look forward to working with you to implement a successful program. Until policy decisions on these program issues are

finalized, please restrict the above information to internal FHWA use only.

Dennis C. Julycki.

Attachments

Preliminary Designations

I. Priority Urban IVHS Corridors

A. Intercity Corridors

1. I-95 Northeast Corridor—Richmond to Boston (ATIS).
 - a. Washington-Baltimore Component.
 - b. Philadelphia 21st Century Component.
 - c. Trenton-Newark.
2. I-94 Midwest Corridor—Chicago to Milwaukee.
 - a. I-90 Midwest Corridor—Chicago to Gary.
 - b. I-5 West Corridor—Los Angeles to South of Anaheim.
 - a. Los Angeles to Anaheim Component.
 - b. Anaheim to San Diego Component.

B. Intraurban Corridors

1. Houston I-45.
2. Northern New Jersey.
3. Los Angeles Smart Corridors.
4. Chicago ADVANCE Project.

II. Possible Other Corridor Sites

1. Anaheim—District 12 test bed.
2. Detroit—I-94/96—DIRECT.
3. Ft. Lauderdale-Miami I-95—FLAMINGO.
4. Minneapolis—Guidestar.
5. Seattle—FAME.

IVHS Operational Tests

Selection Process

Introduction

The Intelligent Vehicle Highway System (IVHS) program consists of a range of advanced technologies and ideas which, in combination, can improve mobility and transportation productivity, enhance safety, maximize the use of existing transportation facilities, conserve energy resources, and reduce adverse environmental effects. The aim of the national IVHS program is to deploy advanced technologies to help solve transportation problems and improve safety.

Operational tests serve as the transition between research and development and full scale deployment of IVHS technologies. The tests evaluate how well newly developed IVHS technologies work under real operating conditions and assess the benefits and public support for the product or system. Operational tests are conducted in a "real world" operational highway environment under "live" transportation conditions. This distinguishes operational tests from research projects or other kinds of testing, for example simulation testing, test tracks, in-service fleet evaluations, or tests on facilities that are temporarily closed to the public.

An operational test integrates existing technology, R&D products, and institutional arrangements to test one, and usually more, new technological, institutional or financial elements in a real world test bed. A test is designed to provide progress towards operational deployment of a technology or institutional or financial arrangement. An operational test may also examine public acceptance and market support for a particular system or for some element of that system and evaluate the market readiness of

given technologies and/or institutional arrangements.

IVHS operational tests are often undertaken as cooperative public/private ventures. An IVHS operational test typically involves a carefully crafted partnership which is negotiated among federal, state, local, private and other institutions. Funding, technical and administrative responsibilities are shared among the partners in the operational test. Funding may be "pooled" or not, depending on the nature of the relationship and agreed upon approach. The partnership aspect, often involving the private sector, distinguishes an operational test from normal contract procurements for specific tasks or activities fully funded by the Federal government. In some cases the operational test may involve only public sector partners, with competitive procurements used for any private sector participation.

The DOT IVHS Program

The national IVHS program and related DOT activities were initially guided by the findings and goals of Mobility 2000. These are now undergoing further refinement and enhancement through a national public/private effort to develop a National IVHS Strategic Plan. A draft of the Strategic Plan will be available in early 1992.

The DOT IVHS program will also be guided by advice from IVHS America, a non-profit corporation which serves as the national forum for coordination of public and private IVHS activities. IVHS America is chartered as an advisory committee to the US DOT on IVHS matters.

Operational tests are a major program element of the DOT IVHS program. All the participating DOT administrations, including the Federal Highway Administration (FHWA), the National Highway Traffic Safety Administration (NHTSA), the Federal Transit Administration (FTA) (formerly the Urban Mass Transportation Administration), and the Research and Special Programs Administration (RSPA), have interest in this area, although their specific program needs tailor the particular arrangements of the operational test. In many cases, there are opportunities for two or more administrations to cooperate in a single operational test.

The FHWA's IVHS program will utilize field operational tests to examine and test a broad range of technologies and issues. Current operational test efforts are examining technologies used in the IVHS areas of: Advanced Traffic Management Systems (ATMS) that will provide improved surveillance methods and new, integrated traffic adaptive control strategies and enhanced multi-

jurisdictional coordination; Advanced Traveler Information Systems (ATIS) that will provide real-time traffic and route guidance information to private and commercial vehicles; Commercial Vehicle Operations (CVO) that will provide an electronic permitting and reporting system for use by motor carriers and State regulatory and licensing agencies and for automatically checking motor carriers and clearing those vehicles with proper credentials.

As part of the overall DOT initiative in IVHS, FTA (formerly UMTA) will utilize field operational tests to demonstrate and evaluate technologies for the Advanced Public Transportation Systems (APTS) program. This program is structured to contribute innovative applications of advanced traveler information and communications technologies that most benefit public transportation. Operational tests will evaluate, for example, the mode choice impact on commuters of more timely ride matching information using various technologies in the home and/or work place. Other tests will utilize new technologies to allow transit operators to facilitate more efficient and safer fleet operations and to reduce unit operating costs. There is a heavy emphasis on public benefits in the APTS component, and many of the operational test partnerships will only involve the public sector. Operational test selection will be guided by the criteria herein following the FTA program procedures in FTA (UMTA) circular C6100.1B, August 24, 1988. Normal procurement arrangements may be used to involve private sector suppliers.

NHTSA may utilize field operational tests to acquire data/information necessary to meet the requirements of the National Traffic and Motor Vehicle Safety Act of 1966—to ensure that Federal Motor Vehicle Safety Standards are “reasonable, practicable and appropriate for the particular type of motor vehicle or item of motor vehicle equipment for which it is prescribed * * *” (Section 103) and to “* * * determine the relationship between motor vehicle or motor vehicle equipment performance characteristics and (a) accidents involving motor vehicles and (b) the occurrence of death, or personal injury resulting from such accidents * * *” (Section 106). IVHS field operational tests will be used, for example, to determine the performance, effectiveness, reliability, maintainability and/or cost of potential IVHS crash avoidance countermeasures.

The Federal Role in IVHS Operational Tests

IVHS operational tests are implemented as cooperative ventures between a variety of public and private partners, including State and local governments, private companies, universities and other institutions. The general Federal role in the national IVHS program is to act as a leader and a catalyst, and to assure adequate emphasis on public benefits. The Federal government will also guide the design and conduct of the project evaluation to ensure that the project is independently evaluated on a national program scale.

The Federal share in funding public/private joint venture operational tests from IVHS funds shall generally not exceed 50% of the total project cost. However, the Federal share for any specific operational test shall be determined by such factors as opportunity to provide significant national benefits, relevance to the Federal IVHS program, and whether the system or technology is close to market availability or is a more long range, higher risk project. In addition to Federal IVHS funds, funding for operational tests may include regular Federal-aid highway funds and/or regular FTA (UMTA) program funds (Sections 3, 4(i) 3(a)(1)(c), 9 and 26), where eligible.

Solicitation of Offers for Operational Tests

In early fiscal year 1992 and annually thereafter, a statement of interest will be published in the *Federal Register* identifying key IVHS technology areas for which public/private joint ventures and/or multimodal operational test offers are encouraged, along with the selection criteria. The statement of interest will be sufficiently explicit to stimulate the presentation of new and imaginative ideas while reflecting the current priorities within the IVHS program. Any innovative offer that is viewed as advancing the IVHS program will be considered for potential Federal support as an IVHS operational test.

The process for the evaluation and selection of IVHS operational tests in response to this solicitation is outlined in Figure 1. The DOT IVHS Working Group provides oversight and input throughout the process.

When appropriate, the DOT modal administrations may also initiate projects by directly seeking partners for a specific operational test or tests. Projects falling within this category might include, for example, tests to obtain operational data supporting

Federal safety standards, the operation of new safety features in vehicles, or customer information improvements for transit.

Operational Test Offer Preparation

Potential participants in IVHS operational tests will be encouraged to have informal contacts with the appropriate DOT agencies during the preparation of proposed cooperative ventures. This allows the prospective partners to gain deeper insights into the current status of the IVHS program and the needs not met with on-going operational test projects. Designated points of contact within the individual agencies will be identified to expedite information exchange.

An operational test offer should contain sufficient information to enable an evaluation of the merits of the technologies in the proposed test, how closely the test supports the overall IVHS program goals, and how strong a commitment the potential project partners have to the successful completion of the project. The offer should contain details regarding potential schedules, financial arrangements within the project partnership, proposed scope of the project and the anticipated results. Proposed cost share arrangements should be spelled out with enough detail to determine whether the resources being committed to the potential project are sufficient to assure successful completion. Special attention should also be paid to clearly stating the goals and expected results of the project, along with plans which have been made to ensure that the results can be fairly and completely evaluated.

Operational Test Review Committee

As shown in Figure 1, the DOT IVHS Working Group will be advised when an offer for participation in a major operational test involving a public/private joint venture or multimodal partnership has been received. The Working Group will review the offer and work with the lead DOT agency to establish an Operational Test Review Committee if warranted.

An Operational Test Review Committee will normally consist of 5 to 6 members, chaired by the lead agency program office. Each agency represented on the IVHS Working Group will be given the opportunity to participate in the review and selection process. As described earlier, an operational test may involve technologies or strategies that fall within the programs of several DOT agencies. The composition of the Review Committee will reflect the

multimodal scope of the operational test as appropriate.

The modal administrations may also continue to select and administer operational tests funded from their regular programs. Information on IVHS related tests will be coordinated through the IVHS Working Group and selection will be guided by the criteria herein.

Criteria for Project Evaluation and Selection

The Operational Test Review Committee will review and evaluate the offers using the selection criteria in Appendix A. These criteria will be used to judge the degree to which an offer addresses the technical, financial, and project management aspects of the proposed operational test. The selection process will focus on measures such as the overall contribution to IVHS program knowledge base, suitability of the proposed site to support overall IVHS program test objectives, and the ability of the existing infrastructure to support the test program. A critical aspect of the selection process will be judging the various factors that could influence the successful outcome of the proposed test. This will include an assessment of the financial resources that are to be committed to the project.

This preliminary evaluation, by the Operational Test Review Committee, will help to identify those offers which have potential for successful participation in the DOT IVHS program. The Review Committee will also identify any technical, administrative or financial areas which may not be adequately addressed in the offer.

Negotiation and Approval Process

The results of the Operational Test Review Committee's preliminary evaluation will be relayed to the project partners, along with any areas of concern identified by the Committee. This will serve as the basis for negotiations between the project partners and the lead DOT agency to reach mutually agreeable terms for an IVHS operational test. It should be noted that the development of the final project may require extensive, and sometimes lengthy, negotiations between the parties. Only upon successful completion of these negotiations would a partnership be formed.

The terms of an operational test will typically be defined in a Memorandum of Understanding (MoU) specific to the project which is negotiated between the DOT lead agency and the project partners. Some operational tests may be defined through a Federal-aid or FTA

(UMTA) project agreement or similar document.

The MoU or other document will be the formal basis for the partnership and will describe the roles and responsibilities of each partner that are essential for the successful completion of the operational test. The MoU will also delineate the cost-sharing arrangements, when appropriate, and any other terms or conditions agreed to among the partners. It should be noted that the partnership may not necessarily involve a transfer of funds to any partner; the agreement may simply be to participate in a particular element of a project.

The Review Committee will be kept informed and provide oversight during the negotiation process and be called upon for advice or assistance as needed. When an agreement has been reached with the project partners, the lead agency will prepare a memorandum documenting the selection process and the responsiveness of the offeror to the criteria. The lead agency will also inform the DOT IVHS Working Group of the results of the negotiations.

Periodically a notice will be placed in the *Federal Register* announcing the initiation of major new joint venture and/or multimodal operational tests.

IVHS Cooperative Agreements and Work Orders

While an MoU defines each partner's roles and responsibilities, generally a Cooperative Agreement will be used as the contract document to transfer Federal IVHS funds to a State DOT or local lead agency for implementation of the operational test. The Cooperative Agreement provides a detailed description of all required phases/tasks, funding levels, and the period of performance. Work Orders become addendums to the Cooperative Agreement and provide details of phases or tasks of the project that are not well defined at the time the Cooperative Agreement is signed.

The general guideline governing the use of Cooperative Agreements and Work Orders are provided as appendix B to this document. While the specific details of Cooperative Agreements will vary to accommodate the circumstances and needs of individual operational tests, these attached guidelines provide the basis for negotiating the project agreements and defining the work scope and responsibilities of the individual project partners.

Appendix A—IVHS Operational Test Selection Criteria

The overall goal of the IVHS program is to provide improved safety, mobility,

driver convenience, energy efficiency, and environmental quality for the highway transportation system through the development and application of advanced vehicle-highway technologies.

Operational tests are an integral and major part of the national IVHS program. These tests serve as the transition between research and development and full scale deployment of IVHS technologies. Operational tests evaluate the reliability and viability of the technology involved, determine public benefits and evaluate cost effectiveness. IVHS operational tests also evaluate new institutional and financial arrangements. As the last step to full deployment, an operational test also assesses the public acceptance and market support for the technologies, and serves to demonstrate to public decision makers the need to utilize IVHS technologies or institutional arrangements.

The selection criteria below are designed to assess the operational test's potential for contributing to the advancement of the national IVHS program, to evaluate the technical and management aspects of the test, and to determine the appropriateness of the proposed Federal role in the project.

Selection Criteria

I. Relationship to National Program

The proposed IVHS Operational Test shall:

1. Directly contribute to the higher priority issues or needs of the DOT IVHS program involving advanced technologies that offer:
 - Increased mobility and operational efficiency
 - Improved safety and reduction of accidents
 - Contributions towards clean air and energy efficiency goals
 - Increased transit ridership and efficiency
 - Increased vehicle occupancy levels through the improved operation of high occupancy vehicle facilities
 - Enhanced commercial productivity and regulatory efficiency
 - Safer transportation of hazardous materials
 - Improved U.S. international competitiveness
2. Advance the development and eventual implementation of the proposed technology or system. Demonstrate that there is an acceptable basis for believing that the technologies being tested will ultimately be successfully deployed or implemented.
3. Have meaningful, distinguishable features involving technical,

institutional, market, or other important characteristics which have not been addressed in operational tests to date. Projects should not replicate past or current tests unless such replication provides a significant contribution to advancing the IVHS program.

4. Fit within a logical evolution of the IVHS program and/or supporting technology as defined by the National IVHS Strategic Plan.

5. Be consistent with the national IVHS program as detailed in the National IVHS Strategic Plan. Contribute to achieving one or more of the IVHS program objectives outlined below:

Advanced Traffic Management Systems (ATMS)

- Develop new supporting ATMS technology including:
 - Improved surveillance methods.
 - New integrated, traffic adaptive control strategies for freeway and street network traffic responsive control systems.
 - A standardized data based system describing the quality of traffic flow on both freeway and street networks to support both control and traveler information systems.
 - Improved computer analysis tools including real-time simulation models and expert systems, that aid operators in making area-wide traffic management decisions.
 - Electronic toll and traffic management systems which reduce delays at toll collection points and act as a source of traffic flow information.
- Field evaluate fully integrated, metro wide, real time traffic management systems which use new technology and/or institutional approaches.

Advanced Traveler Information Systems (ATIS)

- Develop operational field tests of real-time driver information and guidance systems which provide traffic and traveler information to private and commercial vehicles.
- Develop the capability of transmitting roadside signing information to properly equipped private and commercial vehicles for the on-board display of signs.
- Develop two-way communications between the vehicle and the roadside to enable exchanging traffic and travel data and to permit emergency/safety alerts, with location, to be transmitted by the traveler.

Commercial Vehicle Operations (CVO)

- Develop an electronic permitting and reporting system for use by motor

carriers and State regulatory and licensing agencies.

- Develop an electronic system for automatically checking motor carriers and clearing those vehicles with proper credentials.

- Develop a system which monitors and, if necessary, reports on the status of critical driver and vehicle safety features while the motor carrier is travelling.

- Develop operational demonstrations of technologies that would monitor and report on the identity and/or condition of especially sensitive cargo.

Advanced Vehicle Control Systems (AVCS)

- Develop vehicle-based systems for detecting objects and warning drivers of potentially dangerous conditions.
- Develop systems such as automated braking, speed control and steering which assist the driver in responding to potential accident situations.
- Develop systems to allow vehicles in platoons to automatically follow each other at high speeds and close spacing, increasing the capacity and safety of existing roadway lanes.
- Develop technologies to completely automate driving functions for vehicles operating on specially-equipped highway systems.

Advanced Public Transportation Systems (APTS)

- Increase the utilization of public transportation by presenting potential users, especially commuters who normally drive alone, with audio and visual information on the range of transit options to consider in making the mode choice decision.
- Use vehicle location and communications technologies to monitor, control and manage public transportation services in order to provide the most effective and efficient public transportation systems.
- Make public transportation travel easier and more convenient by providing audio and visual information on transportation service schedules, routes and options for those who have selected a public transportation mode. Simplify fare payment by use of electronic media and integrated fare media for all transportation modes.
- Encourage travelers to shift to high occupancy vehicles by providing a faster and more relaxed trip through the granting of preferential treatment or access to facilities reserved for vehicles carrying a pre-set minimum number of passengers.
- Expand the use of ridesharing by making more convenient and timely information available on ride matching.

II. Project Management and Proposed Partnership

The proposed IVHS Operational Test plan shall:

1. Provide an overall level of confidence that the test will be successfully completed.
2. Demonstrate an acceptable level of commitment, management capability and business reliability of the partners and strong state and local support for the project when they are major partners.
3. Demonstrate that there is a state and local commitment to a national technology sharing effort and a willingness to dedicate the time and effort required to share the technical and institutional results of the test with others.
4. Clearly define the roles and responsibilities of the principle partners and demonstrate they have the ability to perform their assigned responsibilities. For large or complex tests, an experienced systems manager to support the project is desirable.
5. Provide sufficient background to validate the accuracy of the cost and schedule estimates for the operational test.
6. Minimize any potential negative effects of the test and demonstrate an awareness and approach for dealing with complicating technical or institutional factors which might adversely affect the test. Innovative or challenging ways for dealing with these factors will be of particular interest.
7. Identify the proposed agreements for sharing of technology developed under this operational test.
8. Identify long range plans for full scale deployment of the technologies when the operational test has been completed.

III. Suitability of the Test Site, Vehicle Fleet and Infrastructure

The proposed Operational Test shall:

1. Demonstrate that the operational test is part of a continuing, ongoing transportation management program or that there is a good opportunity for the operational test to evolve into an operational system after the testing is completed.
2. Demonstrate that the size and characteristics of the test/site are adequate for meaningful evaluation of the proposed system and/or technology and that the test/site has the operational or environmental characteristics to challenge the operation, reliability and durability of the product/prototype being evaluated.

3. Assure that local public transportation services are in place as necessary to assure a valid market test of the operational test technology and that the local public transportation providers are interested in the adoption of new technologies.

4. Provide the opportunity to evaluate the safety benefits of systems and/or operations where such issues are important considerations.

5. Maintain adequate records with regard to operation, maintenance, etc. of the device/system being tested.

IV. Federal Role

The proposed Operational Test shall:

1. Assure that the Federal government role in the operational test is consistent with the Department's statutory role and responsibilities.

2. Assure Federal participation in the design and conduct of the project evaluation to ensure that the project is independently evaluated on a national program scale.

3. Assure that the proposed Federal share in the operational test is consistent with agency policy and appropriate to the type and scope of the test as described below. If a large Federal share is proposed, the test shall have public benefits and/or issues to be examined consistent with the level of Federal funding.

- The share of Federal IVHS funds for public/private joint venture operational tests shall generally not exceed 50% of the total project cost. Regular Federal-aid highway funds and FTA (UMTA) Section 9 formula funds may also be used, where eligible, and can be considered part of a State or local contribution to the test.

- Tests of technology near market-readiness usually are funded largely by the private sector.

4. Demonstrate that Federal IVHS funds are not being used when regular Federal-aid, State, or private funds can and should be used or where the primary benefit of the operational test is in areas of private sector responsibility.

5. Assure that Federal participation in the proposed test is an appropriate use of the Federal government's resources.

Date: February 10, 1992.

Reply to Attn: of: HEP-12.

Subject: Action: Urban Area Boundaries and Highway Functional Classification.

From: Associate Administrator for Program Development.

To: Regional Federal Highway Administrators Federal Lands Highway Program Administrator.

Our October 7, 1991, memorandum provided preliminary guidance on the above subject and requested that the States and metropolitan planning organizations (MPOs)

begin to develop plans for updating the existing functional classification in anticipation of legislation requiring a functional reclassification study. With enactment of the Intermodal Surface Transportation Efficiency Act (ISTEA) of 1991 on December 18, 1991, the States and MPOs should now take appropriate steps to adjust the Census-designated urban area boundaries, if necessary, and complete the functional reclassification of all public roads and streets. The purpose of this memorandum is to provide final instructions for completing these efforts. Instructions for proposing routes for the National Highway System (NHS) will be transmitted at a later date.

Specific instructions and schedules for adjusting the Census-designated urban area boundaries and completing the functional reclassification are contained in Attachments 1 and 2; however, several points regarding these activities are summarized below.

Urban Area Boundaries

1. Section 101(a) of title 23 U.S.C. defines urban areas as urban places of 5,000 or more population and urbanized areas as designated by the Bureau of the Census. This section also allows the States, in cooperation with local officials, to expand the urban area boundaries; subject to approval by the Secretary. Prior to enactment of the ISTEA, the locations of urban area boundaries had a number of significant program implications. Specifically, the urban area boundaries (1) defined the eligibility of routes for the use of urban system and secondary system funds, (2) defined the application of urban transportation planning requirements under 23 U.S.C. 134, and (3) defined the urban and rural limits for administering 23 U.S.C. 131—Control of outdoor advertising. Although the ISTEA has resulted in some major changes in the Federal-aid highway program, the locations of urban area boundaries continues to have significant program implications. Therefore, an urban area boundary as defined under 23 U.S.C. 101(a) is required for each urban area.

2. For capital spending, urban area boundaries continue to determine the limits for urban system and secondary system funds until unobligated balances are exhausted. In addition, the ISTEA requires that a portion of Surface Transportation Program (STP) funds (including any additions from Donor State Bonus funds) and any minimum allocation funds be expended in areas of the State outside of urbanized areas with an urbanized population of over 200,000 and that a portion (110 percent of the amount of funds apportioned to the States for the secondary system for FY 1991) be expended outside of urban areas with a population greater than 5,000. Therefore, the urban area boundaries for urbanized areas with a population greater than 200,000 will define the limits of eligibility for funds that must be expended outside of such areas, and urban area boundaries for all urban and urbanized areas will define the limits of eligibility for funds that must be expended outside of urban areas with a population greater than 5,000. Although a portion of the STP funds are also allocated to urbanized areas with a population of over 200,000, the urban area

boundaries for these areas are not controlling for these funds since they may be used anywhere within the metropolitan area boundary required by Section 1024 of the ISTEA.

3. The urban area boundaries are also important in defining the eligibility of specific routes for the use of STP funds. Section 1007 of the ISTEA specifies that projects may not be undertaken on roads functionally classified as local or rural minor collectors. Because the minor collector category only applies to rural areas, the urban area boundary defines the eligibility of specific routes for the use of STP funds.

4. The ISTEA did not change the program implications associated with the urban area boundaries for administering 23 U.S.C. 131—Control of outdoor advertising. Urban and rural limits for administering 23 U.S.C. 131 will continue to be based on urban area boundaries established under 23 U.S.C. 101(a).

5. Section 1024 of the ISTEA establishes a new requirement for metropolitan area boundaries for purposes of carrying out the provisions of 23 U.S.C. 134 in urbanized areas. The metropolitan areas boundaries must cover at least the existing urbanized area and the contiguous area expected to become urbanized within the 20-year forecast period and may encompass the entire metropolitan statistical area or consolidated metropolitan statistical area. This section further specifies that for areas designated as non-attainment areas for ozone or carbon monoxide under the Clean Air Act, the boundaries of the metropolitan area shall at least include the boundaries of the nonattainment area (except as otherwise provided by agreement between the MPO and the Governor). The metropolitan area boundaries required by section 1024 of the ISTEA are not intended to serve as the urbanized area boundaries defined by 23 U.S.C. 101(a). Separate guidance for establishing the metropolitan area boundaries will be provided at a later date.

6. In addition to the program requirements discussed in the above numbered paragraphs, urban area boundaries defined under 23 U.S.C. 101(a) are used for statistical reporting, including the Highway Performance Monitoring System, needed to support national studies, such as the report on "The Status of the Nation's Highways and Bridges: Conditions and Performance" and highway safety studies required by the Congress.

7. The language contained in 23 U.S.C. 101(a) is clearly permissive. The States and MPOs are not required to adjust the Census-designated boundaries but are allowed to do so to meet Federal-aid highway program requirements consistent with State and local planning. The division offices should discuss the program implications of urban area boundaries with the States before they initiate work to adjust the Census-designated boundaries.

8. Adjustments to the Census-designated boundaries, where appropriate, is a necessary first step in the process of completing a functional reclassification of public roads and streets and then proposing routes for the NHS. To meet the December 18,

1993, date established by the ISTEA for submitting the proposed NHS to the Congress, the States and MPOs must adhere to the schedule established in the attachments to the memorandum for completing this activity.

Functional Classification

1. The ISTEA requires the Secretary to approve the functional classification of public roads and streets and submit a report to the Congress by September 30, 1993. Because the results of the functional classification will be used by the States and MPOs to identify proposed routes for the NHS, this effort must be completed well in advance of the September 3, 1993, deadline. Accordingly, we have established a deadline for December 31, 1992, for submission of the functional classification results to FHWA for approval. This will allow sufficient time for any further adjustments and coordination that may be required prior to approval and give the Planning and Programming Branch adequate time to update geographic information system (GIS) files for mapping the NHS and to prepare a report to submit to the Congress.

2. Although the results of the functional classification will be used for administering the Federal-aid highway program and for assessing the extent, conditions, and performance of the highway system, functional classification can be equally useful to the States as a planning tool for needs assessments, to establish jurisdictional responsibility and design criteria and for other planning activities. The functional reclassification should be conducted with these multiple purposes in mind.

3. We will not establish firm limits or controls of the percentages of roads for each functional classification level; however, we do expect the divisions and regions to work closely with the States and MPOs to ensure that established principles are followed and the recommended percentages contained in the functional classification manual are adhered to as much as possible. The staff paper provided with our October 7 memorandum is intended to assist the divisions and regions in working with the States and MPOs to achieve national consistency in the functional reclassification. The divisions are requested to consult with the regions and the Planning and Programming Branch is the principal arterial mileage in rural or urban areas exceeds the percentages established in the guidelines.

4. Responses to the October 7 memorandum were mixed with regard to the need for functional classification workshops. We have decided, therefore, to leave the decision on whether a workshop should be scheduled to your discretion. Planning and Programming Branch staff members are prepared to present a workshop in each region (or multiple regions) on request. If workshops are held, the MPOs must also be included. Requests for workshops and technical assistance should be directed to Mr. Robert Gorman on (FIS) 366-5001.

5. The report, *Highway Functional Classification—Concepts, Criteria and Procedures*, revised in 1989, provides detailed instructions for conducting the functional classification. Copies are being sent under

separate cover to each division. An addendum (Attachment 3) will be included with the report to provide guidance for handling proposed or future routes and routes crossing an urban boundary.

6. Particular attention must be given to coordination at State lines and between regions. We expect the regional offices to ensure that coordination is accomplished before the functional reclassification results are submitted to Headquarters.

7. It will be necessary for the MPOs to fully participate in the functional classification effort. The States should take the lead in involving the MPOs at the earliest stages of the work and should be requested to provide a statement that the functional classification has been completed in cooperation with the MPOs in their transmittals to the divisions.

8. We will be asking for selected route specific data for rural and urban principal arterials to be submitted with the functional classification maps discussed in Attachment 2. We are still working on the format and requirements; therefore, this information will be transmitted under separate cover.

A preliminary schedule (Attachment 4) showing key steps in completing the designation of urban area boundaries, conducting the functional classification and developing the proposed NHS is attached for your information. The dates established for submitting the urban area boundaries and functional classification maps are consistent with this schedule.

We will use a GIS to develop necessary maps and related summaries for the reports to Congress on the functional reclassification and the proposed NHS. A significant amount of work is required, both in-house and by contract, to develop this capability; therefore, strict adherence to the deadlines established by this memorandum are critical. Because the new functional classification maps may not be available for a year or more, we want to use existing information to the greatest extent possible to develop the GIS base network. Accordingly, we are requesting that the division offices submit maps depicting the existing principal arterials in urbanized areas to the Planning and Programming Branch (HEP-12) for the States identified in Attachment 5. Using the results of the existing functional classification, we can develop the GIS base network and then make appropriate changes to reflect the results of the new functional classification.

We request that urban area boundaries and functional classification maps be submitted to the Planning and Programming Branch as they are approved. This will allow us to proceed with necessary changes to the GIS base network as quickly as possible. In addition to the submittal of maps depicting the urban area boundaries and the functional classification results, it would be extremely beneficial to the GIS effort to also receive this documentation on microcomputer diskettes or nine-track tapes in a ASCII, ARC/INFO or AutoCAD format if available. The instructions in this memorandum are also applicable to the territories.

Technical questions regarding urban area boundaries should be directed to Mr. Frank Clark on (FIS) 366-5006; technical questions regarding functional classification should be

directed to Mr. Gorman on (FIS) 366-5001. Policy questions should be directed to Mr. Tom Weeks on (FIS) 366-5002 or Mr. Dick Torbik on (FIS) 366-0233.

Anthony R. Kane.

5 Attachments

Attachment 1—Urban Area Boundaries

Section 101(a) of title 23 defines urban areas as urban places of 5,000 or more population and urbanized areas as designated by the Bureau of the Census. This section also allows the States and local officials to adjust the Census-designated urban area boundaries, subject to approval by the Secretary. The requirements of FHPM 4-6-3 (reissued without change in the new Policy Guide) continue to apply for establishing urban area boundaries to conform to the 1990 Census except as modified below.

Schedule and Maps

The States should submit the urban area boundaries for urbanized and small urban areas to FHWA by June 30, 1992. All necessary coordination and adjustments should be made to enable approval by division offices by August 31, 1992.

Maps identifying the approved boundaries should be sent to the Planning and Programming Branch (HEP-12) as soon as possible after each approval to facilitate the preparation of a GIS data base. Each map should show the 1990 Census-designated boundary and the urban area boundary as defined by 23 U.S.C. 101(a). The map scale for urbanized areas should be no greater than 1:100,000. In addition to the maps submitted for the urban area boundaries (and functional classification results), it would be extremely beneficial to the GIS effort to also receive this documentation on microcomputer diskettes or nine-track tapes in a ASCII, ARC/INFO or AutoCAD format, if available.

Where the urban area boundary is the same as the 1990 Census-designated boundary, a map does not need to be submitted to HEP-12 until the functional classification results are submitted. A list of such areas should be provided to HEP-12 as soon as possible so that the boundary details can be obtained from Census Tiger files for developing the GIS base. It is important that the conventions established in Attachment 2 be followed for identifying the urban area boundaries. Physical features (e.g., streets, rivers, etc.) making up the boundaries should be clearly labeled.

Census Boundaries

1990 Census urbanized area boundaries are shown in detail on large scale maps sent by the Bureau of the Census directly to each division office beginning in December 1991.

1990 Census urban place boundaries (nonurbanized areas) are shown on Census maps available at the data centers that have been established in each State.

Urbanized Area Boundaries and Metropolitan Area Boundaries

The urbanized area boundaries defined by 23 U.S.C. 101(a) should not be confused with the metropolitan area boundaries required by

Section 1024 of the Intermodal Surface Transportation Efficiency Act of 1991. The metropolitan area boundaries must cover at least the existing urbanized area and the contiguous area expected to become urbanized within the 20-year forecast period.

Although the metropolitan area boundary is needed for the urban planning process and expands the area eligible for certain Federal-aid funds, it does not meet the definition for urban boundaries established by 23 U.S.C. 101.

Criteria for Census Urbanized Area Boundaries

The States and MPOs should note that Census boundaries have been drawn more tightly for 1990 to emphasize urbanized population and housing. They no longer automatically include adjacent large concentrations of nonresidential land use such as industrial parks, office complexes, major airports. There is also less incorporation of nearby urban places and closing or smoothing of boundary indentations. Unusually narrow corridors and small areas occur outside the main Census urbanized area because they are part or urbanized incorporated places. State and local officials are under no obligation to include any of the intervening nonurbanized area within the urban area boundary.

Combined Areas

Urbanized areas and urban places in close proximity may continue to be included within a common urban area boundary upon agreement of State and appropriate local officials. However, separate boundaries for urbanized areas over 200,000 population should be shown and must not encroach upon the Census designated limits of another urbanized area.

Identification of Boundaries

Where an urban area boundary coincides with or is close to a road or street, care should be taken to clearly show whether the road or street is within or outside the urban area.

Attachment 2—Functional Reclassification

Section 1006 of the ISTEA specifies that each State (including the Territories) functionally reclassify the roads and streets in the State in accordance with guidelines and a time schedule established by the Secretary of Transportation. Section 1006 further specifies that the Secretary shall

approve the functional reclassification and submit a report to the Congress not later than September 30, 1993. The guidance contained in the Federal Highway Administration (FHWA) manual, Highway Functional Classification—Concepts, Criteria and Procedures, March 1989, as modified by Attachment 3, will be used for conducting the functional reclassification.

Schedule

The State should submit maps depicting the functional classification results with tables summarizing mileage and VMT by functional system to the FHWA division offices for review and approval by December 31, 1992. Division offices should complete their review and approval by March 31, 1993.

Workshops

Workshops will be held in each region, on request, from February to June 1992. Please contact Mr. Robert Gorman (FTS) 366-5001 to schedule a workshop. The 8-hour workshop will include discussions of both urban area boundaries and functional classification.

To assist HEP-12 in preparing for the workshops, the regions and divisions are requested to submit specific questions or issues that have been raised to date on urban area boundaries and functional classification in advance of the workshops.

Approvals

The division offices should review the States' submittals and ensure that total mileage and VMT for each functional classification is within the recommended ranges listed in the manual, Highway Functional Classification Concepts, Criteria and Procedures. If a State exceeds these ranges there should be sound justification for doing so. The divisions are requested to consult with the regions and HEP-12 if the principal arterial mileage in rural or urban areas exceeds the percentages established in the guidelines. It is also important that the States coordinate with adjacent States to ensure that there is continuity State lines for all arterial routes.

The metropolitan planning organizations (MPOs) must be fully involved in the functional classification effort. The States should initiate coordination with the MPOs and then work closely with the MPOs during the functional reclassification to ensure continuity at the urban boundaries and to provide assistance as needed. Each State

should provide a statement with its submission to the division offices that the MPOs have been fully involved in the functional reclassification.

Maps

The States should submit two maps depicting the functional classification results. The maps should be at an appropriate scale and clarity so that route numbers and other significant geographical details can be easily identified. One map should include all functional classes above local and should be retained in the division office as a permanent record. The other map should identify all arterial highways and urban area boundaries. Two copies of the second map should be sent to HEP-12 once the functional reclassification is completed and approved, but not later than March 31, 1993.

Division offices may specify how many maps (and at what scale) are necessary to depict the entire functional classification. For the maps that are sent to HEP-12, a separate map for each urbanized area (at a scale of 1:100,000) and any small urban area (if necessary) and a statewide map depicting the rural routes are requested.

The following conventions should be adhered to:

1. Census-designated boundaries—black solid line
2. Urban area boundaries (if different from the Census-designated boundary)—black dashed line
3. Interstate highways—Blue solid line
4. Other Freeways and expressways—Brown solid line
5. Other principal arterials—Red solid line
6. Minor arterials—Green solid line
7. Major collectors—Purple solid line
8. Minor collectors—Yellow solid line

(All future routes classified should be depicted with the appropriate color but should be shown as dashed lines.)

Table of mileage and VMT

A table summarizing the mileage and cumulative VMT for each functional classification should be provided for each urbanized area, for all urban roads, and for all rural roads within the State. A recommended format is attached.

BILLING CODE 4910-22-M

FUNCTIONAL CLASSIFICATION RESULTS

Mileage and VMT

Total Rural	Inter-state	Other Principal Arterials	Minor Arterials	Major Collectors	Minor Collectors	Local	Total
Miles							
VMT							
Total Urban	Inter-state	Other Free-ways & Ex-press-ways	Other Principal Arterials	Minor Arterials	Col-lectors	Local	Total
Miles							
VMT							
UZA 1							
Miles							
VMT							
UZA 2							
Miles							
VMT							
UZA 3							
Miles							
VMT							
UZA 4							
Miles							
VMT							
UZA 5							
Miles							
VMT							
ETC.							
ETC.							

NOTE: UZA = URBANIZED AREA. Identify UZA by name.

Attachment 3—Addendum**Highway Functional Classification—
Concepts, Criteria and Procedures**

This addendum supplements the manual, Highway Functional Classification—Concepts, Criteria and Procedures, March 1989 to provide more flexibility for classifying routes that cross urban boundaries and to provide specific criteria for including future or proposed routes.

Routes Crossing Urban/Rural Boundaries

The manual provides for rural routes (other than principal arterials) to be upgraded to a higher classification level when they cross an urban boundary. Although the principle is sound, rigid application has presented difficulties for some States. Accordingly, this addendum to the guidelines is intended to

provide greater flexibility for deciding on an appropriate place for changing the functional classification when rural routes cross an urban boundary, taking into account changes in traffic conditions, the degree of urban development and other factors. Instead of automatically upgrading the functional classification of a rural route that crosses an urban boundary, the rural classification may be continued inside the urban boundary until there is a more logical and acceptable place for a change.

Future Routes

The manual discusses procedures for conducting a functional classification based on projected facilities and usage for some "future year"; however, the manual does not provide criteria for including future or proposed routes into a functional

classification of existing facilities. Because the functional classification will support the designation of the National Highway System which is expected to include some future routes, this addendum established criteria for determining which future routes should be included in the functional classification of existing routes. Future routes should be functionally classified with the existing system if they are included in an approved short range improvement program and there is a good probability that the route will be under construction in the reasonably near future (up to 6 years). Where applicable, the same classification should be given to the future route and to the existing route that it will replace *until the future route is constructed*.

BILLING CODE 4910-22-M

Attachment 5—Maps Depicting the Existing Urban Principal Arterials

Maps depicting the existing principal arterials in urbanized areas are requested for the States identified below. This information is needed to facilitate the development of the geographical information system data base that will be used to support the development of a proposed National Highway System.

Region 1

Maine
New Hampshire
New Jersey
Vermont

Region 3

Maryland
Virginia
West Virginia

Region 4

Mississippi
North Carolina
Tennessee

Region 5

Indiana
Michigan
Ohio
Wisconsin

Region 6

New Mexico
Oklahoma

Region 7

Iowa
Kansas
Missouri

Region 8

Colorado
South Dakota
Utah

Region 9

Hawaii

Region 10

Oregon
Washington

Date: February 10, 1992.

Reply to Attn. of: HRW-10.

Subject: Action: Acquisition of Rights-of-Way Changes in the Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA).

From: Associate Administrator for Program Development.

To: Regional Federal Highway Administrators Federal Lands Highway Program Administrator.

The ISTEA contains provisions which expand the time period within which construction must be commenced on rights-of-way acquired with Federal funds and requirements for eligibility where right-of-way acquisition is undertaken in advance of Federal approval or authorization. The following information is provided for your interim use in ensuring that these provisions are implemented as mandated by Congress:

1. Commencement of construction—Section 1017(a) changes both 23 U.S.C. 108(a) and 108(c)(3) from a 10-year to a 20-year period within which construction must be commenced.

Comment: This change applies prospectively since section 108(c) refers to State/Federal reimbursement agreements and section 108(c)(3) refers to the approved advances of funds. Any existing agreements or advances would contain provisions for the current 10-year period. Both of these actions may, however, be amended for reasonable cause. The repayment period for revolving funds will continue to be 10 years in order to retain the purpose and effectiveness of the revolving fund. This and other features of the revolving fund program will be addressed in more formal guidance before requests for FY 1993 proposals are solicited.

2. Early acquisition of rights-of-way—Section 1017(b) provides for retroactive Federal reimbursement of the costs of rights-of-way acquired in advance of Federal approval or authorization if several conditions are demonstrated by the State to have been met.

Comment: The question of eligibility for right-of-way costs incurred prior to authorization and prior to the effective date of the ISTEA (December 18, 1991), has already been raised. The rule of statutory construction holds that statutory language applies prospectively unless specific language provides for retroactivity. Since there is no language for retroactive application, this provision can only apply to costs incurred after December 18, 1991, and then only if all of the other qualifying criteria is satisfied. One such criteria requires that the acquisition be certified by the Governor as consistent with a comprehensive and coordinated State land use, environment and transportation planning process. Although we are not aware of any State's current ability to meet this criteria, if a State does develop such ability, the terms and conditions specified in the statute would apply only to costs incurred after December 18, 1991.

3. Preservation of transportation corridors report—Within 2 years following enactment, and after consultation with the States, the Secretary shall report to Congress a national list of rights-of-way identified by MPO's and the States, under the provisions of sections 134 and 135 of Title 23, U.S.C., including total mileage, estimated total cost, and a strategy to prevent further loss of right-of-way, including the desirability of creating a transportation right-of-way land bank to preserve vital corridors.

Comment: This provision was effective December 18, 1991, which means guidance to FHWA field offices and to the States must be developed; consultation with the States and MPO's undertaken; data collected and analyzed; and a comprehensive report to Congress prepared in the remaining 23 months. This provision of the ISTEA does not require rulemaking. We are considering the possibility of working through TRB, AASHTO or a pooled fund study to gather data and prepare the required report.

Anthony R. Kane.

Date: February 11, 1992.

Reply to Attn. of: HFO-30.

Subject: MCSAP Guideline Change for Level I and V Inspections.

From: Director, Office of Motor Carrier Field Operations.

To: Regional Directors, Office of Motor Carriers
Regions 1-10.

The purpose of this memorandum is to change current FHWA policy regarding bus inspections, and the minimum percentage of Level I inspections, and establish a maximum percentage of Level V driver/vehicle inspections a State should be required to conduct as part of their overall MCSAP.

The previous policy as outlined in memorandum SP-90-004-IN dated December 20, 1989 stated:

"As a minimum, 50 percent of all driver/vehicle inspections must be Level I type inspections."

Although this may reduce the amount of Level I inspections, the total number of inspections (Level I-IV) still must equal or exceed the State's previous years production."

The new policy with respect to Level I driver/vehicle inspections is as follows:

At least 30 percent of all driver/vehicle inspections (excluding bus inspections) conducted by a State must be Level I inspections.

This change is being made in response to the evolution of the MCSAP from a program directed primarily at driver/vehicle inspections to a program designed to assist States in implementing complete motor carrier safety programs. As States expand their motor carrier programs into other areas, such as Safety and Compliance Reviews, they cannot be expected to maintain the same degree of Level I vehicle inspections activity without a corresponding increase in resources. It is possible, however, to maintain a high degree of driver/vehicle inspection activity by conducting more Level II and III inspections. Since these inspections take less time to conduct, they do not require the same degree of specialized training and equipment and can be conducted in conjunction with routine traffic stops. It is possible to conduct many more inspections with the same amount of resources.

Additionally, Level II and III inspections tend to focus more on the greatest factor in commercial vehicle accidents, the driver. Since the driver has no advance warning when a Level II or III inspection is conducted in conjunction with a routine traffic stop, the inspection more accurately reflects the driver's actual compliance with applicable regulations. This is demonstrated by the difference in driver out-of-service rates for Level I inspections versus those for Level II and III inspections.

The new policy with respect to Level V terminal inspections is as follows:

Level V inspections (excluding bus inspections) should comprise no more than 5 percent of all inspections conducted by a State.

This policy should give the States more flexibility in the management of their motor carrier safety programs while maintaining a

high motor carrier enforcement profile on the highway.

Bus inspections have been excluded from the above policies because of the unavailability of proper facilities to conduct complete inspections. The new policy with respect to bus inspections is as follows:

All States are expected to perform bus inspections. The number of inspections should be determined by each State dependent upon individual needs. The FHWA encourages all types of bus inspections.

Please distribute this policy change to your staff and respective States for implementation. Questions and any additional comments should be directed to Taft Kelly at FTS 366-1231.

R.L. Bleakley for Michael F. Trentacoste.

Date: February 12, 1992.
Reply to Attn. of: HFS-21.

Subject: Information: Advance Construction—Interim Guidance.
From: Director, Office of Fiscal Services, Washington, D.C. 20590.
To: Regional Administrators, Division Administrators.

The purpose of this memorandum is to provide interim guidance on (1) converting existing advance construction projects and (2) approving new advance construction projects under the Intermodal Surface Transportation Efficiency Act (ISTEA) of 1991. Regulations in 23 CFR 630, Subpart G will be revised.

Although there are no changes to 23 U.S.C. 115, Advance Construction, under the ISTEA, there are changes to some categories of funds which are authorized for advance construction. The following guidance is provided for converting and approving advance construction projects:

Converting Existing Projects

1. Unobligated balances of the same category of the advance construction project may be used to convert the project to funded status.
 2. The National Highway System funds may be used to convert any of the projects on the National Highway System.
 3. The Surface Transportation Program funds and Minimum Allocation funds may be used to convert any of the categories.
 4. Interstate Maintenance funds may be used to convert Interstate 4R projects provided the work performed is eligible under the Interstate Maintenance Program.
- In any case, the Federal share is determined by the category of funds obligated on the project.

Approving New Advance Construction Projects

Title 23, subsection 115(a), allows advance construction on certain categories provided the State has obligated its apportionment or obligation authority. The following categories of funds are subject to this subsection:

1. Interstate Substitute, Bridge, Planning, and Research programs are continued in the ISTEA and may be approved for advance construction.
2. The Congestion Mitigation and Air Quality Improvement program may be

approved for advance construction because of the reference to 104(b)(2).

3. Urban, Secondary, Railway-Highway Crossing, and Hazard Elimination were discontinued and may not be approved for advance construction.

4. The Surface Transportation Program, 23 U.S.C. 104(b)(3), is not referenced in this subsection and may not be approved for advance construction.

Subsection 115(b) allows for advance construction of Interstate and Primary projects. The following apply to this subsection:

1. National Highway System projects may be approved for advance construction because of the reference to 104(b)(1).
2. Interstate Construction and Interstate Maintenance projects may be approved for advance construction because of the reference to 104(b)(5).
3. The Interstate 4R apportioned program was discontinued and may not be approved for advance construction.

Limitation

Subsection 115(a)(3), Limitation with Respect to Currently Authorized Funds, is in effect.

Appropriation Codes

The following new appropriation codes are to be used for advance construction:

Program	Appropriation code
Interstate Maintenance Program	OAB
National Highway System	OAC
Congestion Mitigation and Air Quality Improvement Program	OAD

If you have any questions regarding advance construction, please contact Max Inman, FTS 366-2853.
Peter J. Basso.

Date: February 12, 1992.
Reply to Attn. of: HHS-21.
Subject: Motorcycle Helmet and Safety Belt Use Incentive Grants.
From: Associate Administrator for Safety and System Applications, Washington, DC 20590.
To: Regional Administrators.

Attached for your information are the NHTSA press release and application procedures inviting the States to apply for the motorcycle helmet and seat belt use incentive grants under 23 U.S.C. 153.

Our January 27 memorandum provided you with a table showing the amount each State would receive if all States qualify for the grant the first year. About half of the States appear qualified to receive a first year grant. Applications will be accepted until August 1, 1992, for Fiscal Year 1992 grants.

The law requires that a percentage of Fiscal Year 1995 and subsequent year apportionments under Section 104(b)(1), (2), and (3) be transferred to the apportionment under Section 402 in those States which fail to have acceptable motorcycle helmet and safety belt use laws.

We will advise you of further developments in this program.

Dennis C. Judycki.

Attachments

February 5, 1992.

Identical Letter to all States and Puerto Rico and DC

Dear:

It is my pleasure to transmit the application procedures for the National Highway Traffic Safety Administration's new Federal incentive grant program designed to promote the passage of and compliance with safety belt and motorcycle helmet use laws. This three-year incentive program was created through Section 1031 of the Intermodal Surface Transportation Efficiency Act of 1991, which added a new Section 153 to the Title 23, United States Code and was signed into law by President Bush on December 18, 1991.

Administrator Jerry R. Curry sent an advance notice of this program to your Governor in January to provide your State with an early opportunity to take any steps necessary to become eligible for this important initiative. That notice discussed the amount of grant funds available to your State in fiscal year 1992. At this time, we are pleased to forward to you the enclosed application procedures for a grant under 23 U.S.C. 153. Applications will be accepted until August 1, 1992, for fiscal year 1992 grants.

The agency hopes you will give serious consideration to the grant program and that your State will benefit significantly from the additional resources to improve highway safety.

Sincerely,

Adele Derby,
Associate Administrator for Regional Operations
Enclosure

Application Procedures

Incentive Grants Under Section 153 of Title 23, U.S.C. Intermodal Surface Transportation Efficiency Act of 1991

Use of Motorcycle Helmets and Safety Belts

Introduction

Section 1031 of the Intermodal Surface Transportation Efficiency Act of 1991 (the Act) added a new section 153 to the Title 23, United States Code, which authorizes a three year incentive grant program designed to promote the passage of, and compliance with motorcycle helmet and safety belt use laws.

To be eligible for funding under the Act:

- A State must have in effect both a law requiring all individuals on a motorcycle to wear helmets and a law requiring individuals in the front seat of a passenger vehicle to wear safety belts

or be secured in child passenger safety systems.

In addition:

- For the second year, a State must achieve at least 75% compliance under its motorcycle helmet law and 50% compliance under its safety belt law.

- For the third year, a State must achieve at least 85% compliance under its motorcycle helmet law and 70% compliance under its safety belt law.

The incentive grant funds shall only be used to adopt and implement traffic safety programs to provide: education about motorcycle and passenger vehicle safety, and the use of motorcycle helmets and occupant protection devices; and police training; compliance monitoring; and enforcement of motorcycle helmet and safety belt use laws. The Act stipulates that these funds must supplement (not supplant) State programs already underway to support motorcycle helmet and safety belt use.

The National Highway Traffic Safety Administration (NHTSA) views this incentive funding as a means to broaden State efforts to achieve higher safety belt use and enact motorcycle helmet and safety belt use laws. The assistance provided to the States under this incentive grant program can significantly help reduce highway fatalities and injuries.

The incentive grant program is authorized for FY 1992, FY 1993, and FY 1994. Beginning in fiscal year 1995, the Act requires penalties for each fiscal year that a State does not have both a motorcycle helmet and a safety belt use law in effect during the previous year.

Application Procedures

General Requirements

To qualify for a first year grant under 23 U.S.C. 153, the State must submit an application which includes the following:

1. A copy of the State's current laws which mandate the use of motorcycle helmets and the use of safety belts. Attachment 1 describes in more detail this requirement and identifies the exemptions which are not acceptable for purposes of this incentive grant program.

2. A plan for the use of incentive grant funds that describes the initiatives the State is and will be implementing in all of the following areas:

- (A) Education—to educate the public about motorcycle and passenger vehicle safety and motorcycle helmet, safety belt, and child restraint system use and to involve public health education

agencies and other related agencies in these efforts.

- (B) Training—to train law enforcement officers in the enforcement of motorcycle helmet and safety belt use laws.

- (C) Monitoring—to monitor the rate of compliance with State motorcycle helmet and safety belt use laws.

- (D) Enforcement—to enforce State motorcycle helmet and safety belt use laws:

The section 153 plan will be considered as a supplement to the State's section 402 Highway Safety Plan (HSP) for motorcycle safety and occupant protection program areas. The State has the option to include its Section 153 plan with the State's section 402 HSP or submit it separately.

The plan must describe how the initiatives are related to the State's section 402 HSP. If the State believes it does not need to use section 153 funds to expand its current activities in one or more of the Section 153 fundable areas, the State must provide a description of its current activities, funding level(s) and sources of financial support for those areas.

In developing its plans, the State should bear in mind that subsequent year incentive grants will be dependent on achieving specified minimum compliance rates in the preceding fiscal year; therefore, the plans should assure adequate funding for the surveys necessary to document usage rates.

3. A completed Federal-Aid Agreement (HS-Form 62), and a completed Highway Safety Program Cost Summary (HS-Form 217). The State's appropriate match to the Federal share must be indicated and attested to with a signed Federal-Aid Agreement form. Under Section 153, a State match is required in each year as follows:

- (A) First year grant, the State share is at least 25 percent;

- (B) Second year grant, the State share is at least 50 percent; and

- (C) Third year grant, the State share is at least 75 percent.

4. Certification Statements that:

- (A) The State will use the funds awarded under 23 U.S.C. 153 only for traffic safety programs which are described in 23 U.S.C. 153 (b)(1), (2), (3) and (4).

- (B) The State will maintain its aggregate expenditures from all other sources for traffic safety programs to provide education, training, monitoring, and enforcement of motorcycle helmet and safety belt use laws at or above the

average level of such expenditures in the State's fiscal years 1990 and 1991 as stated in 23 U.S.C. 153(c) Maintenance of Effort.

- (C) The State will administer the funds in accordance with 49 CFR Part 18, Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments, and OMB Circulars A-87, A-21, and A-122.

[To qualify for a grant under 23 U.S.C. 153 in subsequent years, the State will also be required to submit information documenting the State's rates of compliance with motorcycle and safety belt usage laws using methods which conform to guidelines issued by NHTSA. NHTSA will issue guidelines for measuring rates in a separate document. The agency will also distribute revised application procedures that will set forth the requirements for applying for second and third-year grants under this program.]

Submission of Application

Applications must be submitted to the appropriate NHTSA Regional Administrator for review and approval. (See Attachment 2)

Completed applications for review and approval must be received by August 1, 1992. Within 30 days of receipt, written notice of approval or disapproval of the Section 153 plan shall be transmitted by the Regional Administrator to the Governor, with a copy to the State Highway Safety Agency.

If additional information is needed, please call the appropriate Regional Administrator.

Limitations on Grants

A State may receive a grant for up to three fiscal years subject to the following limitations:

- (A) The aggregate amount of grants made to a State under Section 153 shall not exceed 90 percent of the amount apportioned to each State for fiscal year 1990 under Section 402. The amount of grants made to a State in each fiscal year shall also be subject to the availability of funding for that fiscal year. NHTSA has given each State advance notice of the amount of grant funds available to that State in FY 1992.

- (B) The incentive grant program is authorized for FY 1992, FY 1993, and FY 1994.

February 3, 1992.

BILLING CODE 4910-22-M



U.S. Department of Transportation
National Highway Traffic Safety Administration
Federal Highway Administration

FEDERAL-AID AGREEMENT

OMB No. 2127-0003

This report is authorized by 23 U.S.C., Chapter 4. Failure to use this form could result in a delay of obtaining grant funds.

This report is authorized by 23 U.S.C., Chapter 4. Reimbursement of costs incurred for approved portions of the State's Highway Safety Plan is contingent upon execution and submission of this form. All certifications and assurances contained in the Highway Safety Plan and all conditions or limitations of approval expressed in any letter authorizing the State to proceed with its Highway Safety Plan are incorporated herein, by reference.

APPROVED PROGRAM

PROGRAM	ESTIMATED TOTAL COSTS	STATE/LOCAL COSTS	FEDERAL FUNDS		EFFECTIVE DATE OF APPROVAL
			CURRENT FY	CARRY FORWARD	
NHTSA					
FHWA					
TOTAL					
TOTAL FEDERAL					

FUNDED PROGRAM

PROGRAM	ESTIMATED TOTAL COSTS	STATE/LOCAL COSTS	FEDERAL FUNDS		EFFECTIVE DATE OF APPROVAL
			CURRENT FY	CARRY FORWARD	
NHTSA					
FHWA					
TOTAL					
TOTAL FEDERAL					

The State further stipulates that pursuant to said Title 23, regulations, and policies and procedures, and as a condition to payment of the Federal funds obligated, it accepts and will comply with the provisions set forth on the reverse side hereof.

STATE OF	NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION
	BY
BY (Name of Official Authorized by the Governor)	TITLE
	DATE
TITLE	FEDERAL HIGHWAY ADMINISTRATION
	BY
	TITLE
DATE	DATE
No.	

U.S. Department of Transportation
National Highway Traffic Safety
Administration
Federal Highway Administration

State _____ Number _____ Date _____

[illegible]

This form will accompany all submissions of Form HS-62.

HS-Form 217 (Rev. 9-90)

BILLING CODE 4910-22-C

Intermodal Surface Transportation Efficiency Act of 1991 Incentive Grants Application Procedures—Attachment 1

To be eligible for a grant under 23 U.S.C. 153, a State must have "a law which makes unlawful throughout the State the operation of a motorcycle if any individual on the motorcycle is not wearing a motorcycle helmet" and "a law which makes unlawful throughout the State the operation of a passenger vehicle whenever an individual in the front seat of the vehicle (other than a child who is secured in a child restraint system) does not have a safety belt properly fastened about the individual's body."

Section 153 (i) contains the following definitions:

"Motorcycle" means a motor vehicle which is designed to travel on not more than 3 wheels in contact with the surface.

"Motor Vehicle" means any vehicle driven or drawn by mechanical power manufactured primarily for use on public highways, except any vehicle operated exclusively on a rail or rails.

"Passenger Vehicle" means a motor vehicle which is designed for transporting 10 individuals or less, including the driver, except that such term does not include a vehicle which is constructed on a truck chassis, a motorcycle, a trailer, or any motor vehicle which is not required on the date of the enactment of this section under a Federal motor vehicle safety standard to be equipped with a belt system.

"Safety Belt" means: (a) with respect to open-body passenger vehicles, including convertibles, an occupant restraint system consisting of a lap belt or a lap belt and a detachable shoulder belt; and (b) with respect to other passenger vehicles, an

occupant restraint system consisting of integrated lap shoulder belts.

Except for children in child restraint systems, the statute does not provide for any exemptions from application for individuals in covered vehicles.

However, NHTSA recognizes that all States have exemptions written into one or both of their motorcycle helmet and safety belt laws. NHTSA believes that Congress' intent to aid States in their efforts to achieve higher safety belt and motorcycle helmet use and enact safety belt and helmet use laws would not be served by reading the statute so literally as to exclude from consideration for the incentive grants all States whose laws contain any exemptions. On the other hand, some exemptions either are incompatible with the language of the statute or would so severely undercut the safety considerations underlying the statute as to render those States whose laws contain such exemptions ineligible for the incentive grant program. (These exemptions also may later subject these States to penalties.)

NHTSA has reviewed current State laws and has determined that most of the existing exemptions, such as medical exemptions from safety belt laws and enclose cab exemptions from motorcycle helmet laws are fully acceptable. Of the exemptions currently on the books, NHTSA has determined that the following are incompatible with the language and/or purpose of the statute:

1. Motorcycle helmet laws of less than universal application, such as laws which apply only to minors or novice motorcycle operators;

2. Safety belt laws which exempt vehicles equipped with air bags.

Laws of the type listed in 1 above are unacceptable because they are inconsistent with the plain language of the statute. Laws of the type listed in 2 above are unacceptable because they would severely undercut the safety considerations underlying the statute and there is no significant countervailing consideration to justify the exclusion. If any State enacts a new exemption that has not yet been considered by the agency, that exemption would be reviewed by NHTSA to determine whether it either is inconsistent with the plain language of the statute or would so severely undercut the safety considerations underlying the statute as to render the State whose law contains such exceptions ineligible for the incentive grant program.

Section 153 provides that a penalty would be imposed in FY 1995 on any State that does not have in effect a conforming safety belt or motorcycle helmet law at any time in FY 1994. Under this penalty, a portion of the State's Federal Highway construction apportionment will be apportioned instead to the State under section 402 of the Highway Safety Act of 1966. There are exemptions that NHTSA has found acceptable for the purpose of this grant, which the agency may consider disallowing for the purpose of the penalty provisions of the statutes. This decision would be made pursuant to a rulemaking process. Accordingly, prior to a final decision, States would receive notice of the agency's proposal and have an opportunity to comment on the issue.

ATTACHMENT 2.—NHTSA REGIONAL OFFICES

Region/states, time	Region address	Name/title
REGION I: (Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, Vermont), 7:45 a.m.-4:15 p.m.	NHTSA Regional Administrator, Transportation System Center, Kendall Square, Code 903, Cambridge, MA 02142.	George A. Luciano, Regional Administrator, Office # (617) 494-3427, Fax # (617) 494-3646.
REGION II: (New Jersey, New York, Puerto Rico and Virgin Islands), 7:45 a.m.-4:15 p.m.	NHTSA Regional Administrator, 222 Mamaroneck Avenue, Room 204, White Plains, NY 10605.	Thomas M. Louizou, Regional Administrator, Office # (914) 682-6162, Fax # (914) 682-6239.
REGION III: (Delaware, District of Columbia, Maryland, Pennsylvania, Virginia, and West Virginia), 8:00 a.m.-4:30 p.m.	NHTSA Regional Administrator, BWI Commerce Park, 7526 Connelley Drive, Suite L, Hanover, MD 21076-1699.	Frank D. Altobelli, Regional Administrator, Office # (410) 768-7111, Fax # (410) 768-7118.
REGION IV: (Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, and Tennessee), 7:45 a.m.-4:15 p.m.	NHTSA Regional Administrator, Suite 1048, 1720 Peachtree Road, NW., Atlanta, GA 30309.	Thomas J. Enright, Regional Administrator, Office # (404) 347-4537, Fax # (404) 347-0097.
REGION V: (Illinois, Indiana, Michigan, Minnesota, Ohio, and Wisconsin), 8:00 a.m.-4:30 p.m.	NHTSA Regional Administrator, 18209 Dixie Highway, Suite A, Homewood, IL 60430.	Donald J. McNamara, Regional Administrator, Office # (708) 206-3300, Fax # (708) 284-3312.
REGION VI: (Arkansas, Louisiana, New Mexico, Oklahoma, and Texas), 8:00 a.m.-4:30 p.m.	NHTSA Regional Administrator, 819 Taylor Street, Room 8A38, Fort Worth, TX 76102-6177.	Georgia S. Jupinka, Regional Administrator, Office # (817) 334-3653, Fax # (817) 334-8339.
REGION VII: (Iowa, Kansas, Missouri, and Nebraska), 7:45 a.m.-4:15 p.m.	NHTSA Regional Administrator, P.O. Box 412515, Kansas City, MO 64141.	Norman B. McPherson, Regional Administrator, Office # (816) 926-7887, Fax # (816) 926-7884.

ATTACHMENT 2.—NHTSA REGIONAL OFFICES—Continued

Region/states, time	Region address	Name/title
REGION VIII: (Colorado, Montana, North Dakota, South Dakota, Utah, and Wyoming), 7:45 a.m.-4:15 p.m.	NHTSA Regional Administrator, 555 Zang Street, 4th Floor, Denver, CO 80228.	Louis R. DeCarolis, Regional Administrator, Office # (303) 321-6917, Fax # (303) 969-6917.
REGION IX: (American Samoa, Arizona, California, Guam, Hawaii, and Nevada), 7:45 a.m.-4:15 p.m.	NHTSA Regional Administrator, Suite 1000, 211 Main Street, San Francisco, CA 94105.	Joseph Cindrich, Regional Administrator, Office # (415) 744-3089, Fax # (415) 744-2532.
REGION X: (Alaska, Idaho, Oregon, and Washington), 8:00 a.m.-4:30 p.m.	NHTSA Regional Administrator, 3140 Jackson Federal Building, 915 Second Avenue, Seattle, WA 98174.	Curtis A. Winston, Regional Administrator, Office # (206) 553-5934, Fax # (206) 553-0480.

Date: February 13, 1992.

Reply to Attn. of: HNG-22.

Subject: Action: ISTE of 1991—Construction and Maintenance Requirements.

From: Associate Administrator for Program Development.

To: Regional Federal Highway Administrators, Federal Lands Highway Program Administrator.

The Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA) amended a number of contract administration and construction and maintenance requirements contained in title 23 and 23 CFR Part 635—Construction and Maintenance. This memorandum will discuss each of these changes and provide interim operating guidance pending the issuance of regulatory revisions.

Prevailing Rate of Wage

Section 1006(g)(2) of the ISTEA amended 23 U.S.C. 113(a) to make Davis-Bacon wage rates applicable to, "work performed on highway projects on the Federal-aid highways." The term "Federal-aid highways" is defined (revised 23 U.S.C. 101(a)) as meaning highways eligible for assistance under this chapter (Title 23, Chapter 1) other than highways classified as local roads or rural minor collectors. Davis-Bacon prevailing rates of wage are, therefore, now applicable to all Federal-aid highway construction projects (NHS and non-NHS) except those located on highways classified as local roads or rural minor collectors.

Preconstruction Activities

Section 1018 of the ISTEA amended 23 U.S.C. 106(c). It now provides that items included in all estimates for construction engineering (CE) for a state for a fiscal year shall not exceed, in the aggregate, 15 percent of the total estimated costs of all projects financed within the boundaries of the State with Federal-aid highway funds in such fiscal year, after excluding from the total estimated costs, the estimated costs of right-of-way, preliminary engineering, and CE.

Also amended was 23 U.S.C. 121(d) to reference the requirements of Section 106(c) as applicable limitations with respect to payment for CE. This reference means that reimbursement for CE costs will be limited to the amount of CE approved on the project under Section 106(c).

The new provision applies to all Federal-aid highway construction (NHS and non-

NHS) projects and project modifications approved on or after December 18, 1991. Projects for which a final voucher has already been approved should not be reopened to claim additional CE costs. The fiscal year limitation may be applied on a State or Federal fiscal year.

Convict Produced Materials

Section 1019 of the ISTEA amended 23 U.S.C. 114(b)(2) by inserting "after July 1, 1991," after "materials produced." This action clarifies congressional intent that language in the Department of Justice Appropriation Acts relative to the incorporation of convict produced materials on Federal-aid highway projects does not override the requirements placed on such use by the Surface Transportation and Uniform Relocation Assistance Act of 1987. Guidance on this subject previously issued by William A. Weseman's memorandums dated September 21, 1989, and February 13, 1990, are superseded by Section 1019.

The requirements now applicable relative to incorporation of convict produced material on Federal-aid projects are contained both in 23 U.S.C. 114(b) and 23 CFR 635.417, by convict labor are prohibited from being incorporated in a Federal-aid highway construction project (NHS or non-NHS) unless (1) produced by convicts who are on parole, supervised release, or probation or (2) if produced by convicts in a qualified prison facility; the quantity is limited to the amount produced during the 12-month period ending July 1, 1987.

Buy America Provisions

Sections 1041(a) and 1048(a) of the ISTEA amended and clarified the Buy America provisions of section 165(a) of the Surface Transportation Assistance Act of 1982 (STAA) and 23 CFR 635.410. Iron has been added to the materials now subject to the Buy America requirements, and the action if applying a coating to a covered material (i.e., steel and iron) is now deemed a manufacturing process subject to Buy America. Coating includes epoxy coating, galvanizing, painting, and any other coating that protects or enhances the value of a material subject to requirements of Buy America. Buy America requirements of 23 CFR 635.410 are applicable to all Federal-aid highway construction projects (NHS and non-NHS).

Section 1048(b) of the ISTEA amended section 165(a) of the STAA to require that all

waivers granted in fiscal years 1992 and 1993 are to be reported to Congress. Therefore, all Buy America waivers granted by Regional Administrators during the period covered need to be reported to the Washington Headquarters, HNG-22, at the time the waiver is granted. Basic information to be provided on each waiver should include the justification and the dollar amount of the items for which the waiver is granted.

Inspection of Certification Acceptance(CA) Projects

Section 1016(f)(2)(C) of the ISTEA revised 23 U.S.C. 117(b) to provide that "The Secretary may accept projects based on inspections of a type and frequency necessary to ensure the projects are completed in accordance with appropriate standards." This revision eliminated the requirement that a final inspection of each CA project be conducted upon its completion.

Effective immediately, the provisions of paragraphs 5(d)(1)(a) and 5(d)(1)(c) of FAPG G6042.08 (former FHPM 6-4-2-8) are revised to delete references to exemptions of CA and SRP projects from the approved procedures for determining the type of inspections which may be used for construction projects. A draft revision to page 4 of the FAPG is attached.

Anthony R. Kane,

Attachment

(Draft Revision to FAPG G6042.08)

d. Final Inspection

(1) A review to determine the extent to which the SHA has exercised its control to assure that the project has been completed in reasonably close conformance with the plans, specifications, and authorized changes.

(a) For all Federal-aid construction projects which require project review and oversight, a final inspection may be accomplished by any of the following methods:

1 an on-site review conducted at or near the completion of work,

2 a review of project records which are provided by the State at the completion of work, or

3 if previous PR/PE or inspection-in-depth reviews of the SHA's internal control programs for inspection of completed projects have indicated the SHA has satisfactory procedures, the final inspection may be based on the finding that the SHA is properly exercising its internal controls and no additional review will be required.

(b) When similar types of work are included in an areawide project, an inspection of a sample of contract work locations may fulfill the requirement for a final inspection.

(2) The Division Administrator should develop and include as a part of the annual CMP a process to determine the final inspection requirements for construction projects. This determination should consider the type, size and complexity of the project, the degree to which the project has been previously inspected by FHWA personnel, the adequacy of the SHA's internal controls, and the degree of independent inspections and evaluations.

Date: February 18, 1992.
Reply to Attn. of: HTV-31.

Subject: Early Deployment IVHS Program—ATMS/ATIS Planning and Preliminary Engineering.
From: Associate Administrator for Safety and System Applications, Washington, DC 20590.
To: Regional Federal Highway Administrators.

On May 23, 1991, we brought to your attention an Intelligent Vehicle Highway Systems (IVHS) initiative which was being considered for fiscal year (FY) 1992 funding. As we have discussed with you and your staff, the Early Deployment of Advanced Traffic Management Systems (ATMS)/Advanced Traveler Information Systems (ATIS) initiatives program will now be funded at \$5 million for FY 1992 and \$7 million for FY 1993. Funding limits have not been specified for FY 1994 through FY 1997. These initiatives will help to facilitate early deployment of IVHS technologies by providing State and local agencies with seed money to begin long-range, comprehensive planning and design. The underlying objective is to provide orderly, efficient deployment of emerging IVHS technologies and to transform state-of-the-art into state-of-the-practice.

The majority of the funds are available for metropolitan areawide efforts; but, as outlined in the attached Deployment Plan, funds are also available for intercity urban/rural corridors. In order to implement these initiatives as soon as possible, we have developed a preliminary listing of FY 1992 metropolitan area candidates which represent each region's recommendations. Additionally, several corridor candidates have been tentatively identified; but these have not been firmed up with your office.

We request that your office review both the metropolitan areawide and corridor lists. If changes to the listing for FY 1992 are necessary, please notify this office.

Proposals should then be prepared for metropolitan areawide and corridor candidates which the region would like to pursue with FY 1992 funding. In general the proposals should include intended scope, activities, products, schedule for proposed work, and anticipated funding needs. Both the areawide and corridor efforts will utilize the Cooperative Agreement procedures. Each potential FY 1992 candidate must provide all information necessary for the Cooperative

Agreement. A sample Cooperative Agreement and proposal is included for your use. When complete, proposals should be forwarded to this office. After we receive information from all regional offices on corridor and metropolitan area candidates, we will select the final projects which can be funded in FY 1992 consistent with available funds.

We anticipate utilizing funds provided by section 6058 of the Intermodal Surface Transportation Efficiency Act under the "other IVHS activities" category for these projects. This will require a maximum 80 percent Federal share and 20 percent from non-Federal sources. We expect that State funds will be used primarily as the matching source for the Early Deployment projects. Although other IVHS programs will continue to encourage a 50/50 split in total project costs, we do not anticipate that Early Deployment projects will be conducive to "soft match" opportunities. The proposal should indicate the anticipated funding split and the type(s) of "hard match" funds to be used. Once a project is approved for funding through the Early Deployment of ATMS/ATIS Initiatives Program, funds in the amount of the IVHS contribution will be added to the State's obligational limitation.

We anticipate that projects to be funded in FY 1993 will be solicited through the Federal Register. Candidates will be encouraged to respond through the regional offices to the solicitation.

If you have any questions, please contact Ms. Shelley Lynch at 202/366-2550. Your support and encouragement of this new program area are appreciated.

Dennis C. Judycki

Attachments

Early Deployment IVHS Funds

ATMS/ATIS Planning and Preliminary Engineering HTV-31 January 1992

Objective—To initiate areawide Advanced Traffic Management Systems (ATMS)/Advanced Traveler Information Systems (ATIS) plans and engineering and begin deployment in the 75 largest metropolitan areas (11 to 15 each year) and in 30 intercity urban/rural corridors (4 to 7 per year) during the 6 year authorization of the ISTEA.

Assumptions

1. \$40 million available for 6 year period. \$5 million in FY 1992, and \$7 million in FY 1993. Specific funding amounts have not been determined for FY 1994 thru FY 1997.

2. For FY 1992

—Distribute \$4.4 million for areawide planning, at an average of \$400,000 per study (80% Federal share)
—Distribute \$600,000 for corridor planning, at an average of \$150,000 per study (80% Federal share)

3. For FY 1993

—Distribute \$6 million for areawide planning, at an average of \$400,000 per study (80% Federal share)

—Distribute \$1 million for corridor planning at an average of \$150,000 per study (80% Federal share)

Selection process

For FY 1992

The metropolitan areas have been selected on the basis of recommendations from FHWA Regional Offices under the guidance of our May 1991 memorandum. Each Regional office has been active in generating interest in the IVHS program, and the FY 1992 Metropolitan Area candidates listed below represent those recommendations based on the ability of the areas to conduct a study and a commitment to deploy the traffic operations technology.

FY 1992 metropolitan area candidates	FY 1992 corridor candidates (tentative)
Region 1—Rochester & Boston.	I-95 Boston to NY/NJ. I-95 NY/NJ to Phil.
Region 3—Pittsburgh.....	I-95 Richmd to Wash. I-95 Wash to Balt. I-95 Balt to Phil.
Region 4—Charlotte & Atlanta.	I-95 Miami to W.P.B.
Region 5—Detroit.....	I-95 Chicago to Milw.
Region 6—Dallas & Austin.....	
Region 7—St. Louis.....	
Region 8—Denver.....	I-25 Through Denver.
Region 9—Orange Co. & San Diego.	I-5 LA to San Diego.
Region 10—Seattle.....	I-5 Seattle to Portl.

For FY 1993 Thru 1997

Our plans are to use the Federal Register to describe the objectives of the program and to encourage candidates to notify our regional offices of their interest. Upon receiving the letters of interest, we should be able to lay out a tentative 5 year plan to reach the remainder of the 75 metropolitan areas and 30 intercity corridors.

Date: February 24, 1992.

Reply to Attn. of: HST-1, NRO-01.

Subject: Seat Belt and Motorcycle Helmet Incentive Awards.

From: Associate Administrator for Safety and System Applications, FHWA, Associate Administrator for Regional Operations, NHTSA.

To: FHWA Regional Administrators, NHTSA Regional Administrators.

As you know, section 1031 of the Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA) provides Federal funding incentives for States that make progress in seat belt and motorcycle helmet legislation, regulation and usage. Due to the technical wording in the ISTEA, minimum allocation States will be required to "pay back" any

incentive received under this law as a reduction in their next year's allocations. We will propose a technical amendment to eliminate the "payback" requirement for the incentive program, but there is no assurance the law will be amended. Attached for your information is a list of the minimum amount of FY 92 seat belt and helmet incentive funds available for each State with the minimum allocation States identified with three asterisks.

Because of the "payback" provision, minimum allocation States may be hesitant to take advantage of the incentive funds. Unfortunately, many of the States eligible to receive these funds are minimum allocation States which also account for a substantial portion of the public who could benefit from these safety initiatives.

Improved use of seat belt and motorcycle helmets is consistent with the Presidential goal to significantly improve the safety of the motoring public within the immediate future. These are two of the most effective initiatives available to reduce accident severity and have the potential to save thousands of lives and serious injuries each year. The NHTSA and FHWA share a common safety goal to implement these initiatives as quickly as possible. We hope all States will be able to meet this legislative criteria by FY 94 so the FY 95 mandatory transfer of funds provision in the legislation will not be required.

We urge you to initiate a joint effort to personally encourage minimum allocation States to fund the incentive in the interest of safety. This provides FHWA and NHTSA with a unique opportunity for intermodal cooperation on a high visibility and proven effective safety initiative. A team effort to improve seat belt and motorcycle helmet usage can provide quick results in reduced accident severity. It could provide a solid investment in future lives saved as well as reducing the need for mandatory transfer of funds for noncompliance in the future.

Katie Moran for Adele Derby

Dennis C. Judycki

Attachment

FY 1992 SECTION 153 INCENTIVE GRANT PROGRAM

[Available Federal Incentive Grant Funds Contingent on Approval of State Application]

State	
Alabama ¹	\$314,237
Alaska	87,610
Arizona	227,135
Arkansas ¹	210,534
California ¹	1,490,375
Colorado	244,549
Connecticut	194,009
Delaware	87,610
Florida ¹	655,847
Georgia ¹	419,759
Hawaii	87,610
Idaho	118,184
Illinois	781,406
Indiana ¹	404,114
Iowa	283,741
Kansas	275,428
Kentucky ¹	278,959
Louisiana ¹	296,841
Maine ¹	87,610

FY 1992 SECTION 153 INCENTIVE GRANT PROGRAM—Continued

[Available Federal Incentive Grant Funds Contingent on Approval of State Application]

State	
Maryland	264,752
Massachusetts	355,201
Michigan ¹	642,081
Minnesota	366,869
Mississippi ¹	218,194
Missouri ¹	402,976
Montana	121,167
Nebraska	187,443
Nevada	93,053
New Hampshire	87,610
New Jersey	446,010
New Mexico	130,849
New York	1,094,812
North Carolina ¹	428,290
North Dakota	129,817
Ohio ¹	722,406
Oklahoma ¹	288,767
Oregon ¹	247,675
Pennsylvania	784,632
Rhode Island	87,610
South Carolina	242,455
South Dakota	117,959
Tennessee ¹	345,586
Texas ¹	1,115,709
Utah	127,671
Vermont	87,610
Virginia	369,397
Washington	317,846
West Virginia	145,721
Wisconsin ¹	380,132
Wyoming	87,610
Dist of Col	87,610
Puerto Rico	188,140

¹ Minimum allocation States.

Date: March 4, 1992.

Reply to Attn. of: HFO-30.

Subject: Motor Carrier Safety Assistance Program (MCSAP), Revised Policy on the Cost Eligibility of Speed Detection Equipment.

From: Director, Office of Motor Carrier Field Operations.

To: Regional Directors, Office of Motor Carriers, Regions 1-10.

In May 1984, shortly after the MCSAP began, the Associate Administrator for Safety, Traffic Engineering, and Motor Carriers issued a memorandum establishing guidelines concerning the cost eligibility of radar speed detection devices under the MCSAP. The memorandum, which is included in the "Cost Eligibility" section of the State Program Reference Guide under #SP-84-007-CE, explained that such equipment could not be considered eligible for reimbursement because it did not directly support the driver/vehicle inspection activities of the States.

In August 1988, the Director of the Office of Motor Carrier Safety Field Operations issued a memorandum establishing policy concerning the cost eligibility of VASCAR speed detection devices (see #SP-88-051-CE in the Reference Guide). Similar to the memorandum mentioned above, the cost of VASCAR units were found to be ineligible for MCSAP reimbursement since they did not directly relate to the enforcement of commercial motor vehicle safety regulations.

The purpose of this memorandum is to revise these long standing guidelines on speed detection devices based on language contained in Title IV, Motor Carrier Act of 1991, of the Intermodal Surface Transportation Efficiency Act of 1991. Section 4002(c) of Title IV allows for the use of MCSAP grant funds in the "enforcement of State traffic laws and regulations designed to promote safe operation of commercial motor vehicles." In addition, Section 4002(g)(4)(A) of Title IV earmarks funds through FY 1997 for "traffic enforcement with respect to commercial motor vehicle drivers . . . carried out in conjunction with an appropriate inspection. . . ." Because expenditures for traffic enforcement coupled with appropriate inspection activities are now reimbursable under the program, it follows that the costs of certain equipment directly related to the performance of these functions by MCSAP officers should be eligible and allocable to States.

Thus, costs associated with the purchase of radar and VASCAR speed detection devices for MCSAP-funded traffic enforcement activities are eligible for reimbursement. However, if such a device is not 100 percent dedicated to the MCSAP, the program will only bear the corresponding percentage of the costs for the device, i.e., if it is used 40 percent of the time in eligible traffic enforcement activities involving commercial motor vehicles, the program will bear 40 percent of its cost.

Please make the appropriate changes in your Reference Guide to reflect that the previous speed detection equipment policies have been superseded by this memorandum. Please direct any comments, questions, or concerns regarding this policy to Dave Osiecki at FTS 366-4340.

Michael F. Trentacoste

Date: March 5, 1992.

Reply to Attn. of: HEP-23.

Subject: Information: Flexibility in the Intermodal Surface Transportation Efficiency Act (ISTEA).

From: Executive Director.

To: Regional Federal Highway Administrators, Federal Lands Highway Program Administrator.

To highlight the flexibility in the use of highway and transit funds within the Intermodal Surface Transportation Efficiency Act (ISTEA) of 1991, the Federal Transit Administration (FTA) and the Federal Highway Administration sent out the attached letter to transportation professionals representing State Departments of Transportation, Metropolitan Planning Organizations (MPO's), and transit operators. I endorse this flexibility message and challenge you to take an active role in working with the States and MPO's in implementing multimodal transportation plans and programs.

I want this flexibility to work the way it was intended to, that is, for transportation investment decisions to be made on a level playing field, with no built-in biases or upfront advantages given to one mode over another. This level playing field is supported

by the equivalent cost sharing for highway and transit capital projects and the enhanced metropolitan planning provisions and the new requirement for statewide planning in ISTEA. The planning provisions provide the framework for evaluating multimodal transportation options and making cost effective transportation investment decisions.

I am committed to seeing a fair and unbiased evaluation of modal alternatives carried out through the statewide and metropolitan transportation planning and programming processes. To that end, I will continue to work with my colleagues in FTA and task you to do the same with the States, MPO's and the FTA representatives in your Region.

E. Dean Carlson

Attachment

Federal Highway Administration

March 2, 1992.

Dear Colleague: One of the most important aspects of the Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA) is the increased flexibility of Federal Highway Administration (FHWA) and Federal Transit Administration (FTA) funds. The purpose of this letter is to inform you of the funds available and to encourage you to take advantage of this flexibility as you plan and establish your project priorities.

ISTEA establishes a new FHWA Surface Transportation Program (STP) which provides block grant-type funding which can be used for any type of highway or transit capital project involving either mode. FTA Section 9 funds, capital-only, can be used for highway projects as long as certain specific requirements are met. Flexible funding is also available from the National Highway System (NHS) program and the Congestion Mitigation and Air Quality (CMAQ) program as well as a number of other program sources.

Congestion Mitigation and Air Quality program funds are available in ozone and carbon monoxide non-attainment areas for programs and projects, highway or transit, which contribute to attainment of a National Ambient Air Quality Standard. Projects such as transit capital improvements, high occupancy vehicle treatments and demand management projects are eligible, if they can be shown to help meet air quality standards. Enclosed is more detailed guidance on this program.

Under certain conditions, National Highway System program funds may be used for transit projects in NHS freeway corridors. In addition, NHS funds may be transferred to the STP program and used for all STP-eligible activities.

FTA and FHWA have reached agreement on procedures for handling transit projects funded with FHWA funds and vice versa. In the near future, we will be issuing guidance on these procedures.

We encourage State and local officials to consider use of these funds on the basis of the multi-modal transportation planning/programming process also outlined in the new legislation. The new transportation planning and programming process established by the ISTEA will provide the forum for making transportation investment

decisions through a coordinated State and metropolitan area-wide process.

For your information, we have enclosed a table which shows the amount of STP funding which is allocated to each State, and how much of these funds are attributable to each urbanized area over 200,000 population within the States. In addition, the table includes the total amount of Section 9 funds allocated to each urbanized area and how much of these funds are capital only, and thus available for highway projects in transportation management areas (urbanized areas over 200,000 population). The table also shows the amount of NHS and CMAQ funds available in each State.

We encourage you to use the flexibility provided through this landmark legislation. We will keep you informed of our progress in developing the details on implementing this important new aspect of our programs. Please do not hesitate to contact our field offices as specific questions arise.

Sincerely,

Brian W. Clymer,
Administrator, Federal Transit
Administration.

Thomas D. Larson,
Administrator, Federal Highway
Administration.

Enclosures

Date: February 20, 1992.

Reply to Attn. of: HEP-41.

Subject: *Information: Interim Guidance on the Congestion Mitigation and Air Quality Improvement Program (CAMQ Program).*

From: Associate Administrator for Program Development.

To: Regional Federal Highway Administrators, Federal Lands Highway Program Administrator.

The intent of this memorandum is to provide interim guidance for the obligation of the funds for the CMAQ program (CM funds), provided by the Intermodal Surface Transportation Efficiency Act (ISTEA) of 1991.

States That Are in Nonattainment

This program allows a State to obligate funds, apportioned under this program, for congestion mitigation and transportation air quality improvement projects and programs in ozone and carbon monoxide (CO) nonattainment areas. Such projects and programs must, or be determined likely to, contribute to attainment of a National Ambient Air Quality Standard (NAAQS). All such projects and programs must come from a conforming transportation plan and transportation improvement program (TIP), and be consistent with the conformity provisions contained in Section 176(c) of the Clean Air Act. Projects also need to complete the National Environmental Policy Act (NEPA) requirements and be included in the appropriate Statewide program.

Geographic Allocation

States which have ozone and/or CO nonattainment areas, which meet the nonattainment classifications contained in the Clean Air Act Amendments (CAAA) of

1990, must use these apportioned funds in such nonattainment areas. We would suggest that the State allocate the use of these funds to the various nonattainment areas in consultation with the affected metropolitan planning organizations.

Eligible Projects and Programs

Transportation projects and programs are eligible for CMAQ program funds only if they meet certain criteria spelled out in the ISTEA (see attached). In determining project eligibility under these criteria, priority should be given to implementing those projects and programs that have documented emissions reductions associated with them, and are included in an approved State Implementation Plan (SIP) as a transportation control measure (TCM). The Environmental Protection Agency (EPA) and DOT have agreed that the following meet the criteria and may be funded without project-level air quality analysis and further consultation with the EPA:

1. Transportation activities in approved SIP.

2. The TCMs included in Section 108(b)(1)(A) of the CAAA of 1990, (see attached) except items xii and xvi which are specifically excluded by the ISTEA.

3. Developing and establishing management systems for traffic congestion, public transportation facilities and equipment, and intermodal transportation facilities and systems, where it can be demonstrated that they are likely to contribute to the attainment of a NAAQS.

4. Capital and operating costs for traffic monitoring, management, and control facilities and programs, where it can be demonstrated that they are likely to contribute to the attainment of a NAAQS. However, CAMQ program funds may not replace existing local and State funds used for operating costs, but are intended to augment and reinforce new efforts.

5. Construction of bicycle and pedestrian facilities, nonconstruction projects related to safe bicycle use, and State bicycle/pedestrian coordinator positions, as established in the ISTEA, for promoting and facilitating the increased use of nonmotorized modes of transportation. This includes public education, promotional, and safety programs for using such facilities. Details on such positions will be discussed in a separate memorandum.

Other projects and programs may be funded if, after consultation with EPA, FHWA determines they are likely to contribute to attainment of a NAAQS. The CMAQ program funds may also be used for preliminary engineering (including environmental or NEPA documents), associated with projects and programs that have air quality benefits, and related project development activities. This would include planning directly related to a TCM or feasibility developmental studies for any other eligible project or program.

Consultation with EPA

The FHWA Regional Offices should establish a consultation and coordination process with their respective EPA Regional Offices to obtain information for FHWA's

determination whether or not individual projects and programs, that are not part of an approved SIP, are likely to contribute to the NAAQS. Consultation with EPA is not required for individual TCMs that are already included in an approved SIP.

Limitation of Construction of Single-Occupant Vehicle Capacity

Construction projects which will add new capacity for single-occupant vehicles are not eligible under this program, unless the project consists of a high-occupancy vehicle (HOV) facility available to single-occupant vehicles only at other than peak travel times. For purposes of this program, construction of added capacity for single-occupant vehicles means the addition of general purpose through lanes to an existing facility, which are not HOV lanes, or a highway on new location.

State Monitoring and Reporting

Documentation of the uses of CMAQ funds is now being considered along with other ISTEA documentation needs. Any

requirements of this kind will be covered in future guidance.

States That Are in Attainment

States that do not have any ozone and CO nonattainment areas, which meet the nonattainment classifications contained in the CAAA, may use their funds for any eligible projects under the Surface Transportation Program. These are Arkansas, Hawaii, Idaho, Iowa, Kansas, Mississippi, Nebraska, North Dakota, Oklahoma, Puerto Rico, South Dakota, Vermont, and Wyoming. We would encourage any of these States which also have particulate matter (PM-10) nonattainment areas (Puerto Rico, South Dakota), and those that achieve attainment of ozone and CO standards in the future but still have PM-10 nonattainment areas, to give priority to the use of these funds for projects and programs that contribute to attainment of the PM-10 standard. This priority should be given only if mobile sources are considered major contributors of such nonattainment.

For States that are in attainment or achieve attainment of transportation-related NAAQS, we would further encourage them to give

priority to the use of CMAQ program funds to the development of congestion management systems and the implementation of projects and programs produced by that system.

General

Federal Share

Federal share for eligible activities and projects is 80 percent or 90 percent if used on the Interstate System, with sliding scale rates not to exceed 95 percent. However, certain activities identified in Section 120(c) of Title 23 (including traffic control signalization, and commuter carpooling and vanpooling) may be funded at 100 percent Federal share if they meet the conditions of that section.

Further Information

Additional guidance will be issued on this program at a later date. If you have any questions on this new program or this interim guidance, please contact Mr. James M. Shrouds at FTS 366-2074 of my staff.

Thomas O. Willett for Anthony R. Kane

2 Attachments

BILLING CODE 4910-22-M

SUB-ALLOCATION OF FY 1992 SURFACE TRANSPORTATION PROGRAM FUNDS

STATE	MANDATORY SAFETY AMOUNTS				OPTIONAL SAFETY AMOUNTS	TOTAL SAFETY	MANDATORY TRANSPORTATION ENHANCEMENT ACTIVITIES	URBANIZED AREAS OF 200,000 POPULATION	AREAS OF LESS THAN 200,000 POPULATION	AREAS OF LESS THAN 5,000 POPULATION	STATE FLEXIBILITY	GRAND TOTAL
	PROTECTIVE DEVICE	ELIMINATION OF HAZARDS	HAZARD ELIMINATION									
ALABAMA	1,610,192	1,610,192	2,987,824		995,255	7,203,463	7,203,463	10,387,177	12,440,988	13,189,151	25,930,650	76,354,892
ALASKA	1,219,593	1,219,593	2,828,325		7,921,261	11,188,772	11,188,772	19,547,710	0	0	105,193,518	127,571,062
ARIZONA	788,041	788,041	2,025,656		1,940,520	5,342,257	5,342,257	2,006,701	0	0	26,430,876	65,226,678
ARKANSAS	1,069,323	1,069,323	1,742,940		0	3,881,586	3,881,586	113,209,924	4,666,810	11,934,419	16,211,435	43,302,537
CALIFORNIA	5,091,358	5,091,358	14,159,451		5,195,759	29,537,926	29,537,926	16,299,992	7,702,536	26,717,173	88,613,780	295,379,265
COLORADO	1,101,364	1,101,364	2,327,131		1,210,164	5,740,823	5,740,823	4,887,006	4,887,006	17,228,073	17,228,073	45,400,239
CONNECTICUT	523,805	523,805	1,841,942		1,670,975	4,560,527	4,560,527	10,267,739	0,084,612	4,450,284	13,681,582	45,400,239
DELAWARE	252,388	252,388	828,325		1,185,987	2,519,008	2,519,008	7,713,216	1,682,095	3,197,729	10,995,471	28,628,527
DIST. OF COL.	105,364	105,364	828,325		691,309	1,730,362	1,730,362	8,651,815	0	0	5,191,090	17,303,629
FLORIDA	2,343,354	2,343,354	6,248,540		6,369,307	17,303,634	17,303,634	58,363,689	11,420,375	16,734,110	51,910,905	173,036,347
GEORGIA	2,348,132	2,348,132	3,994,783		2,275,113	10,966,160	10,966,160	22,085,732	15,440,772	17,296,296	39,194,105	115,957,225
HAWAII	195,897	195,897	828,325		4,993,936	5,614,054	5,614,054	0	0	0	44,912,433	55,559,423
IDAH0	714,660	714,660	1,132,419		1,871,474	4,433,230	4,433,230	0	14,214,822	7,951,329	24,526,812	185,116,152
ILLINOIS	3,963,131	3,963,131	7,422,690		1,871,474	16,613,425	16,613,425	52,429,515	12,399,326	18,238,287	68,822,174	185,116,152
INDIANA	2,481,188	2,481,188	3,840,609		0	9,284,580	9,284,580	4,977,328	10,240,571	13,425,936	34,423,507	57,287,671
IOWA	1,673,729	1,673,729	2,381,310		0	5,487,822	5,487,822	9,070,839	5,751,349	12,616,974	29,179,388	67,594,144
KANSAS	1,783,108	1,783,108	1,921,606		0	5,487,822	5,487,822	9,070,839	5,751,349	12,616,974	29,179,388	67,594,144
KENTUCKY	1,267,517	1,267,517	2,648,972		982,838	6,166,844	6,166,844	9,302,627	8,340,287	13,191,308	21,549,347	64,717,257
LOUISIANA	1,366,645	1,366,645	2,427,055		0	5,160,346	5,160,346	10,165,812	6,506,232	5,568,655	23,318,434	59,440,856
MAINE	469,029	469,029	828,325		648,595	2,414,777	2,414,777	17,157,960	1,179,258	6,339,477	14,006,017	49,353,388
MARYLAND	713,643	713,643	2,514,791		993,261	4,935,338	4,935,338	17,157,960	1,179,258	6,339,477	14,006,017	49,353,388
MASSACHUSETTS	256,597	256,597	859,851		0	1,373,045	1,373,045	4,404,884	0	2,460,345	10,781,181	20,392,500
MICHIGAN	1,897,076	1,897,076	4,322,643		0	8,116,795	8,116,795	21,780,656	4,185,083	18,003,320	24,350,366	81,167,952
MINNESOTA	2,020,968	2,020,968	3,488,032		61,555	7,591,523	7,591,523	18,042,915	7,525,628	15,728,818	35,332,852	88,473,514
MISSISSIPPI	1,120,004	1,120,004	2,076,141		62,656	4,378,804	4,378,804	2,711,006	7,525,628	22,280,455	22,280,455	72,255,975
MISSOURI	1,721,611	1,721,611	3,300,517		0	6,743,740	6,743,740	15,982,289	14,720,698	17,095,716	25,049,792	67,847,029
MONTANA	806,684	806,684	1,153,693		2,570,894	5,337,954	5,337,954	7,451,689	6,838,719	9,990,327	21,772,212	63,041,234
NEBRASKA	1,330,662	1,330,662	1,784,553		410,270	4,856,146	4,856,146	6,866,001	9,772,658	3,199,729	17,759,558	38,257,336
NEVADA	391,995	391,995	886,240		1,611,523	3,281,753	3,281,753	23,692,373	10,973,264	15,118,133	45,860,931	121,334,412
NEW HAMPSHIRE	306,480	306,480	828,325		1,213,900	5,754,465	5,754,465	11,361,189	26,452,526	19,995,644	47,953,504	103,242,080
NEW JERSEY	1,118,587	1,118,587	3,517,290		4,003,794	6,463,730	6,463,730	10,158,537	12,964,551	20,327,238	33,628,707	48,457,730
NEW MEXICO	602,923	602,923	1,254,090		0	11,853,426	11,853,426	10,158,537	12,964,551	20,327,238	33,628,707	48,457,730
NEW YORK	2,174,542	2,174,542	7,506,543		3,307,535	11,361,189	11,361,189	10,158,537	12,964,551	20,327,238	33,628,707	48,457,730
NORTH CAROLINA	1,990,663	1,990,663	4,072,329		62,182	4,110,272	4,110,272	27,692,373	12,964,551	20,327,238	33,628,707	48,457,730
NORTH DAKOTA	1,404,591	1,404,591	1,238,907		0	5,622,879	5,622,879	11,361,189	12,964,551	20,327,238	33,628,707	48,457,730
OHIO	2,380,993	2,380,993	5,182,782		0	9,944,767	9,944,767	11,361,189	12,964,551	20,327,238	33,628,707	48,457,730
OKLAHOMA	1,533,741	1,533,741	2,555,397		0	4,435,371	4,435,371	7,838,860	3,380,306	10,957,694	24,221,765	55,269,367
OREGON	1,064,939	1,064,939	2,305,494		895,893	4,645,047	4,645,047	8,074,234	8,692,916	2,705,000	6,587,694	21,692,312
PENNSYLVANIA	1,017,108	1,017,108	2,610,831		520,940	2,169,231	2,169,231	5,413,861	12,619,754	10,302,156	16,241,585	54,138,613
RHODE ISLAND	1,292,463	1,292,463	2,307,995		1,387,313	4,178,720	4,178,720	13,764,857	6,699,259	15,060,457	30,767,808	88,502,489
SOUTH CAROLINA	827,416	827,416	1,136,573		549,734	7,104,954	7,104,954	6,719,119	21,283,553	40,430,391	77,659,838	258,866,125
SOUTH DAKOTA	1,633,692	1,633,692	3,287,836		4,323,765	25,886,612	25,886,612	14,120,486	8,409,831	3,199,729	10,665,729	26,919,111
TENNESSEE	5,453,140	5,453,140	10,656,567		1,466,317	3,833,665	3,833,665	2,321,911	8,409,831	3,199,729	10,665,729	26,919,111
TEXAS	576,500	576,500	1,214,349		874,955	2,321,911	2,321,911	16,499,736	522,393	14,047,421	28,257,797	72,259,167
UTAH	309,316	309,316	828,325		43,277	6,285,910	6,285,910	10,016,059	6,215,820	8,119,511	10,881,343	36,271,139
VERMONT	1,365,682	1,365,682	3,511,429		0	3,627,113	3,627,113	0	6,215,820	8,119,511	14,742,794	34,893,650
VIRGINIA	859,109	859,109	1,908,896		0	2,878,693	2,878,693	0	18,010,834	14,623,730	54,215,629	119,543,865
WASHINGTON	795,093	795,093	1,288,508		1,788,760	9,332,685	9,332,685	14,028,462	9,821,040	7,699,054	16,636,492	23,493,170
WEST VIRGINIA	1,964,511	1,964,511	3,614,824		1,763,375	2,349,317	2,349,317	0	0	0	18,794,536	3,851,117,114
WISCONSIN	456,159	456,159	828,325		0	2,349,317	2,349,317	0	0	0	18,794,536	3,851,117,114
WYOMING	339,801	339,801	1,669,715		0	2,349,317	2,349,317	0	0	0	18,794,536	3,851,117,114
PUERTO RICO												
TOTAL	70,316,938	70,316,914	145,784,469		67,009,481	353,427,802	353,427,802	766,488,416	356,491,703	561,178,425	1,480,102,966	3,851,117,114

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NOTE: THE STATE FLEXIBILITY AMOUNT AND GRAND TOTAL INCLUDES THE 1/2 OF THE APPORTIONMENT ADJUSTMENT FUNDS THAT ARE NOT SUBJECT TO DISTRIBUTION.

U. S. DEPARTMENT OF TRANSPORTATION
FEDERAL HIGHWAY ADMINISTRATION

PAGE 1 OF 5

URBANIZED AREAS APPORTIONMENT
AUTHORIZED FOR FISCAL YEAR 1992

STATE AND URBANIZED AREA	STP DISTRIBUTION TO URBAN AREAS OVER 200K	DONOR STATE BONUS DISTRIBUTION TO URBAN AREAS OVER 200K	MINIMUM ALLOCATION DISTRIBUTION TO URBAN AREAS OVER 200K	TOTAL DISTRIBUTION TO URBAN AREAS OVER 200K
ALABAMA				
BIRMINGHAM	5,545,094	513,500	1,099,655	7,158,249
COLUMBUS (GA)	287,811	26,653	57,076	371,540
MOBILE	2,682,294	248,392	531,929	3,462,615
MONTGOMERY	1,871,978	173,354	371,235	2,416,567
TOTAL	10,387,177	961,899	2,059,895	13,408,971
ALASKA				
ANCHORAGE	0	0	0	0
TOTAL	0	0	0	0
ARIZONA				
PHOENIX	15,168,351	1,794,603	7,879,849	24,842,803
TUCSON	4,379,359	518,132	2,275,045	7,172,536
TOTAL	19,547,710	2,312,735	10,154,894	32,015,339
ARKANSAS				
LITTLE ROCK-NORTH LITTLE ROCK	2,521,038	175,786	1,866,551	4,563,375
MEMPHIS (TN-MS)	285,663	19,919	211,502	517,084
TOTAL	2,806,701	195,705	2,078,053	5,080,459
CALIFORNIA				
BAKERSFIELD	1,501,734	296,423	404,136	2,202,293
FRESNO	2,250,022	444,126	605,511	3,299,659
LOS ANGELES-LONG BEACH	56,589,238	11,170,002	15,228,921	82,988,161
MODESTO	1,144,440	225,898	307,984	1,678,322
OXNARD-VENTURA-THOUSAND OAKS	2,384,481	470,666	641,696	3,496,843
SACRAMENTO	5,444,091	1,074,595	1,465,078	7,983,764
SAN BERNARDINO-RIVERSIDE	5,807,315	1,146,291	1,562,826	8,516,432
SAN DIEGO	11,654,456	2,300,443	3,136,370	17,091,269
SAN FRANCISCO-OAKLAND	18,012,147	3,555,371	4,847,310	26,414,828
SAN JOSE	7,121,548	1,405,704	1,916,504	10,443,756
STOCKTON	1,300,452	256,693	349,969	1,907,114
TOTAL	113,209,924	22,346,212	30,466,305	166,022,441
COLORADO				
COLORADO SPRINGS	3,075,172	0	0	3,075,172
DENVER	13,224,320	0	0	13,224,320
TOTAL	16,299,492	0	0	16,299,492
CONNECTICUT				
BRIDGEPORT	2,870,956	0	0	2,870,956
HARTFORD	3,788,961	0	0	3,788,961
MERIDEN-NEW HAVEN	3,131,946	0	0	3,131,946
SPRINGFIELD-CHICOPEE-HOLYOKE (MA)	472,026	0	0	472,026
WORCESTER (CONNECTICUT)	3,850	0	0	3,850
TOTAL	10,267,739	0	0	10,267,739
DELAWARE				
WILMINGTON (NJ-ND)	7,713,216	0	0	7,713,216
TOTAL	7,713,216	0	0	7,713,216
DIST. OF COL.				
WASHINGTON (ND-VA)	8,651,815	0	0	8,651,815
TOTAL	8,651,815	0	0	8,651,815

URBANIZED AREAS APPORTIONMENT
 AUTHORIZED FOR FISCAL YEAR 1992

PAGE 2 OF 5

STATE AND URBANIZED AREA	STP DISTRIBUTION TO URBAN AREAS OVER 200K	DONOR STATE BONUS DISTRIBUTION TO URBAN AREAS OVER 200K	MINIMUM ALLOCATION DISTRIBUTION TO URBAN AREAS OVER 200K	TOTAL DISTRIBUTION TO URBAN AREAS OVER 200K
FLORIDA				
DAYTONA BEACH	1,480,146	222,839	800,506	2,503,491
FORT LAUDERDALE-HOLLYWOOD	8,279,618	1,246,514	4,477,860	14,003,992
FORT MYERS	1,474,870	222,045	797,653	2,494,568
JACKSONVILLE	4,937,897	743,411	2,670,559	8,351,867
MELBOURNE-COCOA	2,046,128	308,049	1,106,606	3,460,783
MIAMI	12,803,666	1,927,618	6,924,597	21,655,881
ORLANDO	5,932,367	893,130	3,208,398	10,033,895
PENSACOLA	1,695,587	255,274	917,023	2,867,884
ST. PETE-CLEARWATER-TAMPA	11,426,442	1,720,275	6,179,754	19,326,471
SARASOTA-BRADENTON	2,971,680	447,393	1,607,172	5,026,245
WEST PALM BEACH	5,315,288	800,227	2,874,663	8,990,178
TOTAL	58,363,689	8,786,775	31,564,791	98,715,255
GEORGIA				
ATLANTA	18,263,396	1,839,779	7,849,633	27,952,808
AUGUSTA (SC)	1,836,678	185,019	789,406	2,811,103
CHATTANOOGA (TN)	390,980	39,386	168,044	598,410
COLUMBUS (AL)	1,594,678	160,641	685,395	2,440,714
TOTAL	22,085,732	2,224,825	9,492,478	33,803,035
HAWAII				
HONOLULU	0	0	0	0
TOTAL	0	0	0	0
ILLINOIS				
CHICAGO-NORTHWESTERN INDIANA (IN)	45,790,701	0	0	45,790,701
DAVENPORT-ROCK ISLAND-MOLINE (IA)	981,550	0	0	981,550
PEORIA	1,761,199	0	0	1,761,199
ROCKFORD	1,510,289	0	0	1,510,289
ST. LOUIS (MO)	2,385,776	0	0	2,385,776
TOTAL	52,429,515	0	0	52,429,515
INDIANA				
CHICAGO-NORTHWESTERN INDIANA (IL)	4,111,081	377,875	2,115,584	6,604,540
FORT WAYNE	2,080,128	191,197	1,070,445	3,341,770
INDIANAPOLIS	7,659,568	704,038	3,941,654	12,305,260
LOUISVILLE (KY)	838,661	77,087	431,579	1,347,327
SOUTH BEND (MI)	1,801,783	165,613	927,207	2,894,603
TOTAL	16,491,221	1,515,810	8,486,469	26,493,500
IOWA				
DAVENPORT-ROCK ISLAND-MOLINE (IL)	1,330,194	0	0	1,330,194
DES MOINES	3,029,334	0	0	3,029,334
OMAHA (NE)	617,800	0	0	617,800
TOTAL	4,977,328	0	0	4,977,328
KANSAS				
KANSAS CITY (MO)	5,318,754	0	0	5,318,754
WICHITA	3,752,085	0	0	3,752,085
TOTAL	9,070,839	0	0	9,070,839
KENTUCKY				
CINCINNATI (OH)	1,977,490	188,045	199,049	2,364,584
LEXINGTON-FAYETTE	1,846,566	175,595	185,870	2,208,031
LOUISVILLE (IN)	5,478,571	520,971	551,457	6,550,999
TOTAL	9,302,627	884,611	936,376	11,123,614

URBANIZED AREAS APPORTIONMENT
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STATE AND URBANIZED AREA	STP DISTRIBUTION TO URBAN AREAS OVER 200K	DONOR STATE BONUS DISTRIBUTION TO URBAN AREAS OVER 200K	MINIMUM ALLOCATION DISTRIBUTION TO URBAN AREAS OVER 200K	TOTAL DISTRIBUTION TO URBAN AREAS OVER 200K
LOUISIANA				
BATON ROUGE	2,237,446	321,955	102,799	2,662,200
NEW ORLEANS	6,360,143	915,187	292,216	7,567,546
SHREVEPORT	1,568,223	225,658	72,052	1,865,933
TOTAL	10,165,812	1,462,800	467,067	12,095,679
MARYLAND				
BALTIMORE	9,753,452	0	0	9,753,452
WASHINGTON (DC-VA)	7,333,639	0	0	7,333,639
WILMINGTON (DE-NJ)	70,869	0	0	70,869
TOTAL	17,157,960	0	0	17,157,960
MASSACHUSETTS				
BOSTON	3,166,922	0	0	3,166,922
LAWRENCE-HAVERHILL (NH)	241,909	0	0	241,909
PROVIDENCE-PANTUCKET-MARWICK (RI)	106,223	0	0	106,223
SPRINGFIELD-CHICOPEE-HOLYOKE (CT)	530,263	0	0	530,263
WORCESTER	359,567	0	0	359,567
TOTAL	4,404,884	0	0	4,404,884
MICHIGAN				
ANN ARBOR	969,535	249,268	439,931	1,658,734
DETROIT	16,143,694	4,150,543	7,325,276	27,619,513
FLINT	1,423,441	365,967	645,893	2,435,301
GRAND RAPIDS	1,905,076	489,795	864,437	3,259,308
LANSING	1,157,425	297,574	525,187	1,980,186
SOUTH BEND (IN)	99,328	25,537	45,071	169,936
TOLEDO (OH)	82,157	21,122	37,279	140,558
TOTAL	21,780,656	5,599,806	9,883,074	37,263,536
MINNESOTA				
MINNEAPOLIS-ST. PAUL	18,042,915	0	0	18,042,915
TOTAL	18,042,915	0	0	18,042,915
MISSISSIPPI				
JACKSON	2,461,360	189,732	739,744	3,390,836
MEMPHIS (TN-AR)	249,646	19,244	75,029	343,919
TOTAL	2,711,006	208,976	814,773	3,734,755
MISSOURI				
KANSAS CITY (KS)	5,239,062	690,670	2,604,456	8,534,188
ST. LOUIS (IL)	10,663,227	1,405,741	5,300,930	17,369,898
TOTAL	15,902,289	2,096,411	7,905,386	25,904,086
NEBRASKA				
OMAHA (IA)	7,451,689	0	0	7,451,689
TOTAL	7,451,689	0	0	7,451,689
NEVADA				
LAS VEGAS	5,331,746	0	0	5,331,746
RENO	1,634,255	0	0	1,634,255
TOTAL	6,966,001	0	0	6,966,001
NEW HAMPSHIRE				
LAWRENCE-HAVERHILL (MA)	303,541	0	0	303,541
TOTAL	303,541	0	0	303,541

URBANIZED AREAS APPORTIONMENT
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STATE AND URBANIZED AREA	STP DISTRIBUTION TO URBAN AREAS OVER 200K	DONOR STATE BONUS DISTRIBUTION TO URBAN AREAS OVER 200K	MINIMUM ALLOCATION DISTRIBUTION TO URBAN AREAS OVER 200K	TOTAL DISTRIBUTION TO URBAN AREAS OVER 200K
NEW JERSEY				
ALLENTOWN-BETHLEHEM-EASTON (PA)	92,371	0	0	92,371
NEW YORK-NORTHEASTERN NJ (NY)	19,034,236	0	0	19,034,236
PHILADELPHIA (PA)	3,516,894	0	0	3,516,894
TRENTON (PA)	951,719	0	0	951,719
WILMINGTON (DE-MD)	96,934	0	0	96,934
TOTAL	23,692,154	0	0	23,692,154
NEW MEXICO				
ALBUQUERQUE	10,604,301	0	0	10,604,301
EL PASO (NEW MEXICO)	174,470	0	0	174,470
TOTAL	10,778,771	0	0	10,778,771
NEW YORK				
ALBANY-SCHEMECTADY-TROY	1,677,464	0	0	1,677,464
BUFFALO	3,144,449	0	0	3,144,449
NEW YORK-NORTHEASTERN NJ (NJ)	36,013,922	0	0	36,013,922
ROCHESTER	2,041,708	0	0	2,041,708
SYRACUSE	1,281,454	0	0	1,281,454
TOTAL	44,158,997	0	0	44,158,997
NORTH CAROLINA				
CHARLOTTE	3,904,365	424,101	1,333,251	5,661,717
DURHAM	1,759,847	191,158	600,947	2,551,952
FAYETTEVILLE	2,071,855	225,050	707,491	3,004,396
RALEIGH	2,621,709	284,776	895,253	3,801,738
TOTAL	10,357,776	1,125,085	3,536,942	15,019,803
OHIO				
AKRON	2,419,756	468,772	1,414,725	4,303,253
CANTON	1,121,152	217,198	655,488	1,993,838
CINCINNATI (KY)	4,475,538	867,033	2,616,650	7,959,221
CLEVELAND	7,689,726	1,489,708	4,495,844	13,675,278
COLUMBUS	4,333,024	839,424	2,533,328	7,705,776
DAYTON	2,812,170	544,794	1,644,152	5,001,116
LORAIN-ELYRIA	1,027,229	199,002	600,575	1,826,806
TOLEDO (MI)	2,156,058	417,687	1,260,552	3,834,297
YOUNGSTOWN-WARREN	1,657,720	321,145	969,196	2,948,061
TOTAL	27,692,373	5,364,763	16,190,510	49,247,646
OKLAHOMA				
OKLAHOMA CITY	7,010,981	622,406	2,668,239	10,301,626
TULSA	4,242,456	376,628	1,614,593	6,233,677
TOTAL	11,253,437	999,034	4,282,832	16,535,303
OREGON				
PORTLAND (WA)	7,838,860	752,511	130,787	8,722,158
TOTAL	7,838,860	752,511	130,787	8,722,158
PENNSYLVANIA				
ALLENTOWN-BETHLEHEM-EASTON (NJ)	753,776	0	0	753,776
HARRISBURG	572,544	0	0	572,544
PHILADELPHIA (NJ)	6,406,260	0	0	6,406,260
PITTSBURGH	3,281,469	0	0	3,281,469
SCRANTON-WILKES-BARRE	758,870	0	0	758,870
TRENTON (NJ)	83,869	0	0	83,869
WILMINGTON (PENNSYLVANIA)	3,673	0	0	3,673
TOTAL	11,860,461	0	0	11,860,461

URBANIZED AREAS APPORTIONMENT
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STATE AND URBANIZED AREA	STP DISTRIBUTION TO URBAN AREAS OVER 200K	DONOR STATE BONUS DISTRIBUTION TO URBAN AREAS OVER 200K	MINIMUM ALLOCATION DISTRIBUTION TO URBAN AREAS OVER 200K	TOTAL DISTRIBUTION TO URBAN AREAS OVER 200K
RHODE ISLAND				
PROVIDENCE-PANTUCKET-WARWICK (MA)	8,141,156	0	0	8,141,156
TOTAL	8,141,156	0	0	8,141,156
SOUTH CAROLINA				
AUGUSTA (GA)	539,848	0	0	539,848
CHARLESTON	3,058,510	0	0	3,058,510
COLUMBIA	2,549,164	0	0	2,549,164
GREENVILLE	1,926,712	0	0	1,926,712
TOTAL	8,074,234	0	0	8,074,234
TENNESSEE				
CHATTANOOGA (GA)	1,826,510	238,406	606,342	2,671,258
KNOXVILLE	2,217,690	289,465	736,200	3,243,355
MEMPHIS (AR-MS)	5,544,859	723,745	1,840,712	8,109,316
NASHVILLE-DAVIDSON	4,175,798	545,047	1,386,228	6,107,073
TOTAL	13,764,857	1,796,663	4,569,482	20,131,002
TEXAS				
AUSTIN	4,282,364	578,523	1,220,961	6,081,848
CORPUS CHRISTI	2,057,380	277,940	586,587	2,921,907
DALLAS-FORT WORTH	24,369,953	3,292,244	6,948,210	34,610,407
EL PASO	4,288,688	579,378	1,222,764	6,090,830
HOUSTON	22,111,397	2,987,126	6,304,265	31,402,788
MCALLEN-PHARR-EDINBURG	2,005,459	270,926	571,784	2,848,169
SAN ANTONIO	8,603,878	1,162,336	2,453,085	12,219,299
TOTAL	67,719,119	9,148,473	19,307,656	96,175,248
UTAH				
OGDEN	2,883,254	0	0	2,883,254
PROVO-OREM	2,453,893	0	0	2,453,893
SALT LAKE CITY	8,783,339	0	0	8,783,339
TOTAL	14,120,486	0	0	14,120,486
VIRGINIA				
NEWPORT NEWS-HAMPTON-VA BEACH-MORFOL	6,720,861	0	0	6,720,861
RICHMOND	2,996,886	0	0	2,996,886
WASHINGTON (DC-MD)	6,781,989	0	0	6,781,989
TOTAL	16,499,736	0	0	16,499,736
WASHINGTON				
PORTLAND (OR)	624,116	0	0	624,116
SEATTLE-EVERETT	6,499,280	0	0	6,499,280
SPOKANE	1,039,826	0	0	1,039,826
TACOMA	1,852,837	0	0	1,852,837
TOTAL	10,016,059	0	0	10,016,059
WISCONSIN				
MADISON	2,330,743	182,318	831,764	3,344,825
MILWAUKEE	11,697,719	915,031	4,174,525	16,787,275
TOTAL	14,028,462	1,097,349	5,006,289	20,132,100
PUERTO RICO				
SAN JUAN	0	0	0	0
TOTAL	0	0	0	0
GRAND TOTAL	766,488,416	68,880,443	167,334,059	1,002,702,918
	33C	358	348	

FEDERAL TRANSIT ADMINISTRATION SECTION 9 PROGRAM

FISCAL YEAR 1992 SECTION 9 FUNDING

URBANIZED AREA	TOTAL APPORTIONMENT	OPERATING ASSISTANCE LIMITATION	CAPITAL ONLY
OVER 1,000,000 IN POPULATION:			
Atlanta, GA.....	\$25,133,997	\$6,068,717	\$19,065,280
Baltimore, MD.....	19,848,450	9,713,473	10,134,977
Boston, MA.....	53,387,031	18,236,994	35,150,037
Chicago, IL-Northwestern IN.....	135,294,920	51,072,503	84,222,417
Cincinnati, OH-KY.....	9,132,235	5,261,537	3,870,698
Cleveland, OH.....	16,948,533	9,626,869	7,321,664
Dallas-Fort Worth, TX.....	22,217,872	8,632,845	13,585,027
Denver, CO.....	13,620,441	5,893,578	7,726,863
Detroit, MI.....	25,367,029	21,372,219	3,994,810
Ft Lauderdale-Hollywood-Pompano Bch, FL.	12,450,669	7,329,916	5,120,753
Houston, TX.....	25,993,059	9,071,304	16,921,755
Kansas City, MO-KS.....	6,840,069	4,458,217	2,381,852
Los Angeles, CA.....	113,354,908	57,003,726	56,351,182
Miami-Hialeah, FL.....	23,215,521	8,373,127	14,842,394
Milwaukee, WI.....	11,450,990	5,455,492	5,995,498
Minneapolis-St. Paul, MN.....	14,527,250	7,274,074	7,253,176
New Orleans, LA.....	10,537,105	6,598,631	3,938,474
New York, NY-Northeastern NJ.....	414,009,841	132,016,635	281,993,206
Norfolk-Virginia Beach-Newport News, VA.	7,080,322	4,191,482	2,888,840
Philadelphia, PA-NJ.....	76,227,852	31,779,915	44,447,937
Phoenix, AZ.....	12,284,489	4,699,894	7,584,595
Pittsburgh, PA.....	23,248,568	9,486,262	13,762,306
Portland-Vancouver, OR-WA.....	13,583,021	4,395,482	9,187,539
Riverside-San Bernardino, CA.....	5,930,853	2,512,253	3,418,600
Sacramento, CA.....	7,864,374	3,474,423	4,389,951
San Antonio, TX.....	11,418,510	4,571,722	6,846,788
San Diego, CA.....	22,791,338	7,294,770	15,496,568
San Francisco-Oakland, CA.....	76,320,142	19,423,183	56,896,959
San Jose, CA.....	16,540,730	6,599,096	9,941,634
San Juan, PR.....	8,573,192	7,500,377	1,072,815
Seattle, WA.....	28,098,375	6,163,460	21,934,915
St. Louis, MO-IL.....	13,778,558	9,576,609	4,201,949
Tampa-St. Petersburg-Clearwater, FL.....	10,164,065	5,214,118	4,949,947
Washington, DC-MD-VA.....	56,480,906	16,861,201	39,619,705
SUBTOTAL	1,343,715,215	517,204,104	826,511,111

200,000-1,000,000 IN POPULATION:

Akron, OH.....	\$3,515,541	2,300,829	1,214,712
Albany-Schenectady-Troy, NY.....	5,124,999	2,231,552	2,893,447
Albuquerque, NM.....	3,510,734	1,542,143	1,968,591
Allentown-Bethlehem-Easton, PA-NJ.....	2,665,294	2,333,162	332,132
Anchorage, AK.....	1,798,033	761,428	1,036,605
Ann Arbor, MI.....	2,464,946	978,304	1,486,642
Augusta, GA-SC.....	1,261,789	779,322	482,467
Austin, TX.....	7,703,453	1,467,602	6,235,851
Bakersfield, CA.....	2,355,342	956,927	1,398,415
Baton Rouge, LA.....	1,950,191	1,278,744	671,447

FEDERAL TRANSIT ADMINISTRATION SECTION 9 PROGRAM

FISCAL YEAR 1992 SECTION 9 FUNDING

URBANIZED AREA	TOTAL APPORTIONMENT	OPERATING ASSISTANCE LIMITATION	CAPITAL ONLY
Birmingham, AL.....	3,365,023	2,348,959	1,016,064
Bridgeport-Milford, CT.....	3,936,443	2,039,329	1,897,114
Buffalo-Niagara Falls, NY.....	9,186,348	5,986,068	3,200,280
Canton, OH.....	1,268,012	1,126,738	141,274
Charleston, SC.....	1,980,001	1,068,262	911,739
Charlotte, NC.....	3,781,378	1,287,810	2,493,568
Chattanooga, TN-GA.....	1,655,119	970,831	684,288
Colorado Springs, CO.....	2,260,314	963,753	1,296,561
Columbia, SC.....	1,792,085	1,090,583	701,502
Columbus, GA-AL.....	1,231,260	817,138	414,122
Columbus, OH.....	7,413,154	4,341,578	3,071,576
Corpus Christi, TX.....	2,054,111	857,543	1,196,568
Davenport-Rock Island-Moline, IA-IL.....	1,855,496	1,115,797	739,699
Dayton, OH.....	7,525,058	2,888,980	4,636,078
Daytona Beach, FL.....	1,390,418	774,828	615,590
Des Moines, IA.....	1,824,129	1,086,724	737,405
Durham, NC.....	1,163,120	798,635	364,485
El Paso, TX-NM.....	5,055,548	1,777,440	3,278,108
Fayetteville, NC.....	990,980	734,953	256,027
Flint, MI.....	2,031,132	1,511,678	519,454
Fort Myers-Cape Coral, FL.....	1,436,146	564,420	871,726
Fort Wayne, IN.....	1,527,394	1,077,905	449,489
Fresno, CA.....	3,455,535	1,450,577	2,004,958
Grand Rapids, MI.....	2,669,753	1,533,201	1,136,552
Greenville, SC.....	1,398,646	741,073	657,573
Harrisburg, PA.....	1,686,270	1,119,212	567,058
Hartford-Middletown, CT.....	5,939,251	2,271,262	3,667,989
Honolulu, HI.....	14,399,642	2,812,907	11,586,735
Indianapolis, IN.....	5,760,208	3,779,508	1,980,700
Jackson, MS.....	1,312,892	893,465	419,427
Jacksonville, FL.....	4,902,494	2,002,549	2,899,945
Knoxville, TN.....	1,618,342	890,675	727,667
Lansing-East Lansing, MI.....	2,031,841	1,149,752	882,089
Las Vegas, NV.....	3,952,361	1,364,829	2,587,532
Lawrence-Haverhill, MA-NH.....	2,311,105	844,882	1,466,223
Lexington-Fayette, KY.....	1,430,335	1,281,638	148,697
Little Rock-North Little Rock, AR.....	1,753,509	1,024,814	728,695
Lorain-Elyria, OH.....	977,566	773,072	204,494
Louisville, KY-IN.....	6,928,202	3,860,036	3,068,166
Madison, WI.....	\$3,130,690	\$986,035	\$2,144,655
McAllen-Edinburg-Mission, TX.....	886,673	819,189	67,484
Melbourne-Palm Bay, FL.....	2,177,941	696,481	1,481,460

FEDERAL TRANSIT ADMINISTRATION SECTION 9 PROGRAM

FISCAL YEAR 1992 SECTION 9 FUNDING

URBANIZED AREA	TOTAL APPORTIONMENT	OPERATING ASSISTANCE LIMITATION	CAPITAL ONLY
Memphis, TN-AR-MS.....	6,264,817	3,577,439	2,687,378
Mobile, AL.....	1,657,378	996,903	660,475
Modesto, CA.....	1,916,345	981,150	935,195
Montgomery, AL.....	1,048,864	1,014,393	34,471
Nashville, TN.....	3,873,634	1,658,643	2,214,991
New Haven-Meriden, CT.....	6,352,214	2,291,605	4,060,609
Ogden, UT.....	1,950,583	692,618	1,257,965
Oklahoma City, OK.....	3,217,437	2,295,641	921,796
Omaha, NE-IA.....	4,127,055	2,354,334	1,772,721
Orlando, FL.....	5,413,586	1,732,371	3,681,215
Oxnard-Ventura, CA.....	2,520,012	1,343,521	1,176,491
Pensacola, FL.....	1,172,396	750,824	421,572
Peoria, IL.....	1,531,490	1,046,128	485,362
Providence-Pawtucket, RI-MA.....	10,847,855	4,702,822	6,145,033
Provo-Orem, UT.....	1,641,103	806,260	834,843
Raleigh, NC.....	1,635,387	723,494	911,893
Reno, NV.....	2,078,773	834,054	1,244,719
Richmond, VA.....	4,396,679	1,916,324	2,480,355
Rochester, NY.....	5,221,692	3,071,916	2,149,776
Rockford, IL.....	1,254,957	962,688	292,269
Salt Lake City, UT.....	8,754,548	2,429,649	6,324,899
Sarasota-Bradenton, FL.....	2,351,122	1,254,210	1,096,912
Scranton-Wilkes-Barre, PA.....	2,408,433	1,723,617	684,816
Shreveport, LA.....	1,612,993	1,044,602	568,391
South Bend-Mishawaka, IN-MI.....	1,599,683	1,141,132	458,551
Spokane, WA.....	3,632,392	1,107,307	2,525,085
Springfield, MA-CT.....	4,499,870	2,011,783	2,488,087
Stockton, CA.....	2,058,870	1,328,383	730,487
Syracuse, NY.....	3,905,891	1,886,065	2,019,826
Tacoma, WA.....	5,434,734	1,541,657	3,893,077
Toledo, OH-MI.....	4,263,846	2,227,342	2,036,504
Trenton, NJ-PA.....	2,797,780	1,966,571	831,209
Tucson, AZ.....	5,182,957	1,647,689	3,535,268
Tulsa, OK.....	2,960,293	1,560,057	1,400,236
West Palm Bch-Boca Raton-Delray Bch, FL.....	8,328,589	1,641,982	6,686,607
Wichita, KS.....	2,121,712	1,349,633	772,079
Wilmington, DE-NJ-MD-PA.....	3,644,454	1,996,096	1,648,358
Worcester, MA-CT.....	2,948,303	1,152,188	1,796,115
Youngstown-Warren, OH.....	1,684,577	1,775,000	(90,423)

SUBTOTAL	\$304,109,551	\$144,693,213	159,416,338

50,000-200,000 IN POPULATION:

ALABAMA.....	\$3,285,716	\$2,964,920	\$320,796
ALASKA.....	0	0	0
ARIZONA.....	521,816	311,402	210,414
ARKANSAS.....	1,255,398	1,201,691	53,707
CALIFORNIA.....	19,233,384	10,233,214	9,000,170
COLORADO.....	3,543,887	2,767,320	776,567
CONNECTICUT.....	12,035,144	6,835,774	5,199,370
DELAWARE.....	267,323	143,562	123,761

FEDERAL TRANSIT ADMINISTRATION SECTION 9 PROGRAM

FISCAL YEAR 1992 SECTION 9 FUNDING

URBANIZED AREA	TOTAL APPORTIONMENT	OPERATING ASSISTANCE LIMITATION	CAPITAL ONLY
FLORIDA.....	8,147,711	4,743,988	3,403,723
GEORGIA.....	3,567,225	3,264,633	302,592
HAWAII.....	948,247	715,971	232,276
IDAHO.....	1,876,599	1,218,369	658,230
ILLINOIS.....	8,883,124	8,375,491	507,633
INDIANA.....	5,013,471	4,609,728	403,743
IOWA.....	2,729,089	2,674,914	54,175
KANSAS.....	1,325,128	1,143,457	181,671
KENTUCKY.....	1,044,412	956,278	88,134
LOUISIANA.....	3,092,842	2,811,994	280,848
MAINE.....	1,346,001	1,216,421	129,580
MARYLAND.....	1,496,932	1,130,734	366,198
MASSACHUSETTS.....	5,928,965	6,034,947	(105,982)
MICHIGAN.....	5,059,314	4,940,774	118,540
MINNESOTA.....	1,802,991	1,641,423	161,568
MISSISSIPPI.....	1,547,766	1,364,197	183,569
MISSOURI.....	2,132,967	1,813,411	319,556
MONTANA.....	1,420,030	1,302,721	117,309
NEBRASKA.....	1,578,717	1,179,022	399,695
NEVADA.....	0	0	0
NEW HAMPSHIRE.....	1,916,940	1,400,623	516,317
NEW JERSEY.....	1,452,358	1,748,582	(296,224)
NEW MEXICO.....	790,886	521,152	269,734
NEW YORK.....	4,388,347	4,344,399	43,948
NORTH CAROLINA.....	7,123,630	5,728,620	1,395,010
NORTH DAKOTA.....	1,384,262	1,045,613	338,649
OHIO.....	3,805,893	3,693,749	112,144
OKLAHOMA.....	811,381	815,521	(4,140)
OREGON.....	3,089,433	2,144,227	945,206
PENNSYLVANIA.....	8,076,166	7,718,210	357,956
PUERTO RICO.....	7,461,103	4,983,455	2,477,648
RHODE ISLAND.....	474,892	370,566	104,326
SOUTH CAROLINA.....	2,010,813	1,524,392	486,421
SOUTH DAKOTA.....	998,512	787,429	211,083
TENNESSEE.....	1,545,176	1,335,888	209,288
TEXAS.....	14,308,343	11,566,010	2,742,333
UTAH.....	285,977	153,579	132,398
VERMONT.....	501,809	367,704	134,105
VIRGINIA.....	3,330,960	3,024,952	306,008
WASHINGTON.....	3,147,890	2,169,515	978,375
WEST VIRGINIA.....	2,419,351	2,725,455	(306,104)
WISCONSIN.....	6,623,301	5,920,763	702,538
WYOMING.....	693,365	693,923	(558)

SUBTOTAL	175,724,987	140,380,683	35,344,304

TOTAL	1,823,549,753	802,277,997	1,021,271,756

U.S. DEPARTMENT OF TRANSPORTATION
FEDERAL HIGHWAY ADMINISTRATION

States	Amount
Apportionment of Funds for National Highway System Funds Authorized for Fiscal Year 1992	
Alabama.....	53,929,751
Alaska.....	44,379,691
Arizona.....	37,638,472
Arkansas.....	32,301,674
California.....	244,930,952
Colorado.....	44,098,807
Connecticut.....	47,750,300
Delaware.....	14,325,090
Dist. of Col.....	14,886,858
Florida.....	110,668,343
Georgia.....	81,175,510
Hawaii.....	14,605,974
Idaho.....	21,908,961
Illinois.....	108,983,038
Indiana.....	61,232,738
Iowa.....	44,098,807
Kansas.....	40,166,429
Kentucky.....	46,345,880
Louisiana.....	46,626,764
Maine.....	17,695,699
Maryland.....	44,098,807
Massachusetts.....	53,367,983
Michigan.....	78,647,553
Minnesota.....	48,873,837
Mississippi.....	35,110,515
Missouri.....	68,535,725
Montana.....	30,897,253
Nebraska.....	30,054,601
Nevada.....	21,628,077
New Hampshire.....	17,133,931
New Jersey.....	73,310,755
New Mexico.....	30,054,601
New York.....	153,362,729
North Carolina.....	71,063,682
North Dakota.....	21,066,309
Ohio.....	101,680,051
Oklahoma.....	42,975,270
Oregon.....	34,548,747
Pennsylvania.....	115,443,373
Rhode Island.....	14,605,974
South Carolina.....	41,570,850
South Dakota.....	23,313,382
Tennessee.....	61,794,506
Texas.....	191,562,969
Utah.....	26,683,991
Vermont.....	15,448,627
Virginia.....	61,513,622
Washington.....	49,435,605
West Virginia.....	34,548,747
Wisconsin.....	47,188,532
Wyoming.....	23,313,382
Puerto Rico.....	16,431,722
Total.....	2,807,015,446

Apportionment of Funds for Congestion Mitigation and Air Quality Funds Authorized for Fiscal Year 1992

Alabama.....	4,130,305
Alaska.....	4,130,305
Arizona.....	11,068,936
Arkansas.....	4,130,305
California.....	122,327,579
Colorado.....	4,130,305
Connecticut.....	19,395,695
Delaware.....	4,130,305
Dist. of Col.....	4,130,305
Florida.....	24,647,525
Georgia.....	12,764,756
Hawaii.....	4,130,305
Idaho.....	4,130,305
Illinois.....	40,390,992
Indiana.....	9,288,926
Iowa.....	4,130,305
Kansas.....	4,130,305

U.S. DEPARTMENT OF TRANSPORTATION
FEDERAL HIGHWAY ADMINISTRATION—
Continued

States	Amount
Kentucky.....	6,061,655
Louisiana.....	4,130,305
Maine.....	4,130,305
Maryland.....	25,970,506
Massachusetts.....	33,948,479
Michigan.....	24,046,171
Minnesota.....	4,130,305
Mississippi.....	4,130,305
Missouri.....	8,178,424
Montana.....	4,130,305
Nebraska.....	4,130,305
Nevada.....	4,130,305
New Hampshire.....	4,130,305
New Jersey.....	47,551,123
New Mexico.....	4,130,305
New York.....	86,888,662
North Carolina.....	10,186,949
North Dakota.....	4,130,305
Ohio.....	36,217,590
Oklahoma.....	4,130,305
Oregon.....	4,425,970
Pennsylvania.....	49,832,262
Rhode Island.....	4,826,874
South Carolina.....	4,130,305
South Dakota.....	4,130,305
Tennessee.....	9,204,736
Texas.....	82,039,901
Utah.....	4,130,305
Vermont.....	4,130,305
Virginia.....	17,551,540
Washington.....	13,209,759
West Virginia.....	4,130,305
Wisconsin.....	10,387,400
Wyoming.....	4,130,305
Puerto Rico.....	4,130,305
Total.....	826,060,950

Date: March 11, 1992.

Reply to Attn. of: HNG-12.

Subject: ACTION: Request for NHS High Priority Corridor Feasibility and Design Studies for FY 1992 Funding—Section 1105(h) of the 1991 ISTEA (Reply Due: April 30, 1992).

From: Associate Administrator for Program Development.

To: Regional Federal Highway Administrators, Federal Lands Highway Program Administrator.

Section 1105(h) of the 1991 ISTEA created a new discretionary funding category for the conduct of feasibility and design studies for the 21 high priority corridors on the National Highway System (NHS). The descriptions of these corridors are provided in Section 1105(c). For FY 1992, \$7,753,168 is available from the Highway Trust Fund for this program. Subsequent funding of \$8 million for each of fiscal years 1993, 1994, 1995, 1996 and FY 1997 is also authorized. These funds are available for 4 years. The Federal share is 100 percent.

The Office of Environment and Planning (HEP-1) will have an interest in participating in these studies. Both the Office of Engineering and Office of Environment and Planning will be working jointly in the process of selecting projects for funding.

We encourage multi-State corridor studies and suggest States involved in the defined

corridor consider reaching agreement for developing studies which cover a significant length of the corridor. In these instances, it would be highly desirable for one State to assume a lead role and submit the candidate project.

We are requesting submission of candidate studies for our consideration for funding in FY 1992 for the NHS corridors defined in Section 1105(c) and the study defined in Section 1105(e)(2). There is no prescribed format for the submissions. There should be adequate information to show the scope and nature of the proposed study; the study's overall costs; the amount of discretionary funds being requested; other funding sources, both Federal and non-Federal, being committed to the study; estimated study time schedules; estimated obligation date; and any other information that could prove useful in making judgments on the study. We are requesting a single page summary of facts (sample outline attached) be included for each candidate study.

Considering the relatively small sum of funds available, it is suggested a limited number of candidates be submitted. We request that each region rank in priority order the candidate studies submitted by the States. Regional ranking should consider your knowledge of the transportation needs and other relevant factors. Replies are due April 30.

Selection will be based to a large extent on the data contained in the submission, regional ranking and supporting information, and a study's ability to expeditiously complete a small gap segment in the corridor or provide cost and alignment information for corridors being developed on new location.

You may call Mr. Jerry Poston at FTS 366-4652 if you have questions.

Anthony R. Kane

Attachment

Summary Sheet

NHS High Priority Corridor Feasibility and Design Studies—Candidate for FY 1992 Funding

State/s:

Lead State:

ISTEA Corridor Subsection Designation:

Corridor Study Limits:

Scope and Nature of Proposed Study:

Total Estimated Cost of Study:

Amount of Discretionary Funds Requested:

Other Funding Sources (Federal/non-Federal)

Committed to Study:

Estimated Time Schedule for Study:

Estimated Obligation Date:

Other Information:

Date: March 12, 1992.

Reply to Attn. of: HNG-12.

Subject: Information: Toll Highways and Ferries—Section 1012 of the 1991 Intermodal Surface Transportation Efficiency Act (ISTEA).

From: Associate Administrator for Program Development.

To: Regional Federal Highway Administrators, Federal Lands Highway Program Administrator.

Section 1012 of the 1991 ISTEA amended 23 U.S.C. 129 to allow a State much greater flexibility in using Federal-aid highway funds to participate in the construction of toll facilities. The purpose of this memorandum is to provide initial guidance on these new provisions and other provisions in the act affecting toll highways and ferries.

Eligibility

Amended 23 U.S.C. 129(a)(1) establishes five broad categories of toll activities eligible for Federal-aid highway funding. These are:

1. Initial construction, except on the Interstate System, of toll highways, bridges and tunnels and approaches to these facilities [129(a)(1)(A)].

For the first time, Federal-aid funds may be used for the initial construction of toll highways. However, it is noted that, in a change from previous law, Federal funds are no longer eligible to participate in the initial construction of bridges/tunnels on the Interstate System.

2. 4R work on existing toll facilities [129(a)(1)(B)].

4R work on existing toll facilities is eligible for Federal participation regardless of whether or not the toll facility has in effect a prior agreement with the FHWA.

3. Reconstruction or replacement of free bridges or tunnels and conversion to toll facilities [129(a)(1)(C)].

We are interpreting the term "reconstruction" as used for the purpose of qualifying a conversion of a free bridge or tunnel to a toll facility to require "major" reconstruction work on the bridge or tunnel. Some latitude is available in determining "major" work. For example, replacing or widening existing bridges or tunnels or providing a dual facility are viewed as "major" reconstruction. On the other hand, certain types of work clearly do not meet our intent for "major" reconstruction. For example, putting up toll booths, painting, and updating bridge rail are not considered to be "major" work that would qualify a bridge for conversion. Although these latter types of activities could be eligible for Federal participation as part of a "major" reconstruction effort, in and of themselves, they are not viewed as "major."

Reconstruction or replacement and conversion of a bridge or tunnel previously constructed with Federal-aid funds can be accomplished with or without Federal-aid participation. In either case, a section 129(a)(3) toll agreement will need to be executed prior to undertaking the conversion project.

It is also noted that section 129(a)(1)(C) contains no Interstate System restriction. Accordingly, existing Interstate System bridges or tunnels may be reconstructed or replaced and converted to toll facilities.

4. Reconstruction of free highway, except Interstate System, and conversion to toll facilities [129(a)(1)(D)].

Similar to conversion of bridges/tunnels, conversion of a highway requires that "major" work first be undertaken. Examples of "major" reconstruction include adding new lanes to increase capacity, reconstruction of the existing lanes, or acquisition of access control coupled with construction of interchanges.

Reconstruction and conversion of a highway previously constructed with Federal-aid funds can be accomplished with or without Federal-aid participation. In either case, a section 129(a)(3) toll agreement will need to be executed prior to undertaking the conversion project.

5. Preliminary studies to determine the feasibility of the above toll construction activities [129(a)(1)(E)].

Federal Share

Amended 23 U.S.C. 129(a)(5) established Federal share for Federal-aid toll projects. In general, the Federal share is 50 percent except as follows:

—The FHWA has determined that a Federal share of 80 percent is allowed for construction of new toll bridges and tunnels, for reconstruction or replacement of existing toll bridges and tunnels, and for reconstruction or replacement of free bridges and tunnels and conversion to toll facilities.

—A Federal share of 80 percent is allowed for 4R work on an existing toll highway, bridge or tunnel that is covered by an existing free-up agreement (an agreement executed under old Section 119(e) or 129) until the scheduled expiration date of the free-up agreement.

Federal shares for the various categories of Federal-aid toll activities are illustrated on the attached chart.

Agreements

Amended 23 U.S.C. 129(a)(3) covers use of toll revenues. If Federal-aid funds are used to construct a toll facility or the approach to a toll facility or if a State plans to reconstruct and convert a free highway, bridge or tunnel previously constructed with Federal-aid highway funds to a toll facility, an agreement under section 129(a)(3) must be executed prior to either authorization of Federal funds for any work or the State undertaking a reconstruction and conversion project on its own. In addition, for 4R work on existing toll facilities, before authorization of Federal funds an agreement under section 129(a)(3) needs to be executed or the existing toll agreement with the FHWA needs to be modified to incorporate the provision of section 129(a)(3). A toll agreement is not needed for preliminary studies to determine the feasibility of constructing a toll facility.

The agreement must require that all toll revenues are used first for debt service, reasonable return on private investment and operation and maintenance, including 4R work. At the option of the State, the agreement may also include a provision regarding toll revenues in excess of those needed for the required uses. Such a provision would entitle the State to use these excess revenues for purposes authorized under Title 23, if the State certifies annually that the facility is being adequately maintained.

The agreement must be executed between the State highway agency, another public authority (if the toll facility is under the jurisdiction of this other authority) and the FHWA. The signing official for FHWA continues to be the FHWA Administrator. Consequently, all toll agreements are to be

forwarded to Headquarters similar to past practices.

The issue of whether a toll facility is to become free when debt is retired or at some other future point in time or whether tolls are to be continued indefinitely is a matter to be determined by the State. The toll agreement should reflect the State's decision on this matter.

Modification of Section 119 or 129 Free-up Agreements

Existing free-up toll agreements executed prior to December 18, 1991, under section 119(e) or section 129 (including former Section 129(d) agreements for approaches to Interstate highways) may be modified to allow for continuation of tolls. A provision covering the annual State maintenance certification and use of tolls, as provided for in section 129(a)(3), may be added to these agreements. An agreement modification needs to be executed by all parties to the agreement including the FHWA Administrator.

If an existing free-up toll agreement is not modified, the State is bound by the terms of that agreement covering the use of revenues and free-up requirements.

Imposition of Tolls

For toll activities under section 129(1)(A), (C) or (D) discussed above, tolls may not be imposed until the construction or reconstruction/conversion of the toll facility is completed. Decisions regarding whether tolls are collected in only one direction versus both directions of travel are at a State's discretion.

Ownership

Besides public ownership, amended 23 U.S.C. 129(a)(2) now allows private ownership of a federally funded toll facility if the public authority having jurisdiction over the toll facility has entered into a contract with a private entity to design, finance, construct and operate the facility. If privately owned, the public authority having jurisdiction over the toll facility must ensure compliance with Title 23, United States Code requirements. In addition, to be eligible for Federal funding the privately owned facility must be on a "public road" as defined in 23 U.S.C. 101(a).

Loan Program

Eligibility

Amended 23 U.S.C. 129(a)(7) allows the State to make loans to a public or private entity which is constructing a toll project that is eligible for Federal-aid funding. The test for project eligibility under the loan program is the same as the test for eligibility on a regular Federal-aid project. The State may request authorization of such a project for the purpose of making a loan to that entity. Such a loan is considered an eligible, reimbursable cost. The amount loaned shall be subordinated to other debt financing for the facility except for loans made by the State or any other public agency to the entity.

Authorization

If the project meets the test for eligibility, a loan of State funds can be made at any time after the Federal environmental requirements have been complied with and all project permits have been obtained. The loan may be for any amount, provided the maximum Federal share of the total eligible project cost is not exceeded. The total eligible project cost is the eligible cost remaining at the time the FHWA authorizes the loan to be made. In other words, a loan can be initiated on an active, eligible project, but the amount cannot be based on the cost of work done prior to authorization. A loan project can be authorized under the advance construction provisions of title 23, U.S.C. 115 that apply to the type of funds being used.

Phased obligations and non-Federal share—

The State may be authorized to make the loan in increments. Federal-aid funds are obligated in conjunction with each incremental authorization. The State is considered to have incurred a cost at the time the loan, or any portion of it, is made and may be reimbursed for the cost. Reimbursement may be for the full amount of the loan. The non-Federal share may be provided by the entity receiving the loan.

Repayment

Loans must be repaid to the State. The repayment must begin within 5 years after the project is completed and under traffic and must be completed within 30 years after the first increment of the loan is obligated. Interest on the loan is at the average rate the State's pooled investment fund earned in the 52 weeks preceding the start of repayment. The initial toll project for which the State has requested Federal reimbursement for the State loan is viewed as a Federal-aid highway project subject to the same basic requirements and FHWA oversight responsibilities which are being followed for comparable toll-free Federal-aid projects. Once Federal-aid funds have been used to reimburse the State for this eligible cost (i.e., loan), the Federal identity of these funds has been extinguished. Therefore, the repaid loan will not be returned to the Federal

government or to the State's apportionment balance.

Subsequent Use of Repaid Amounts

The State must use these repaid amounts for any type of project that was eligible under Title 23, United States Code. However, no Federal requirements attach to activities advanced with funds repaid to the State.

Direct Payment to Other Entities

Amended 23 U.S.C. 129(a)(4) allows a State to request that the FHWA directly reimburse another public authority for the Federal share of a toll construction project undertaken on a facility under the jurisdiction of the other public authority. Questions regarding the fiscal mechanisms for accomplishing this should be directed to the Finance Division, HPS-20.

Ferry Boats and Terminals

Amended 23 U.S.C. 129(b) and (c), formerly 23 U.S.C. 129(f) and (g), cover the use of Federal funds for ferries and approaches to them. Generally, the provisions remain "as is" although some clarifications and modifications have been made as follows:

- Section 129(c) has been amended to clearly state that terminal facilities are eligible for Federal participation.
- Section 129(c)(3) continues to require public ownership of the ferry. However, by now being silent on the issue of "operation" it clearly allows the State to contract with a private entity to operate the ferry.
- Section 129(c)(4) clarifies that another public agency may be the operating authority and responsible for the fare charged.
- Section 129(c)(4) also clarifies that toll revenues may be used for debt service, negotiated management fees, and in the case of privately operated ferry, for a reasonable rate of return.
- One important item is that section 129(c)(2) as presently worded only covers eligibility for ferries and terminal facilities that are on routes on the National Highway System (NHS). Unless the law is changed, we plan to limit use of this section to NHS routes.

Discretionary Ferry Boats and Ferry Terminal Facilities Program

Section 1064 of the 1991 ISTEA has established a new special discretionary fund for the construction of ferry boats and ferry terminal facilities. A total of \$14 million is authorized for FY 1992. By separate memorandum to you, we have solicited candidate projects from the States for possible funding in FY 1992.

Toll Pilot Program

Section 129(d) [formerly section 129(j)] retains the toll pilot program with no changes. For the nine designated projects, the States have the option of authorizing new work either under the provisions of Section 129(d) at 35 percent Federal share or Section 129(a) at 50 percent Federal share; however, if the latter option is selected, prior to any authorization for work, the toll agreement with the FHWA will need to be modified and approved by the Administrator to reflect the provisions of Section 129(a).

Congestion Pricing Pilot Program

Section 1012(b) of the 1991 ISTEA establishes a congestion pricing pilot program. This provision is being administered by the Transportation Studies Division, HPP-10, and further guidance will be provided by that office.

Special Provisions for Existing Toll Facilities

Section 1012(e), (f) and (g) of the 1991 ISTEA covering the New York State Thruway and Fort McHenry Tunnel, the I-78 Delaware River Bridge and the bridge connecting the Pennsylvania Turnpike system and the New Jersey Turnpike, respectively, contain special provisions related to these facilities. These sections are considered self explanatory and no further guidance is anticipated.

Questions regarding this memorandum should be directed to Mr. Jerry Poston, Chief, Federal-Aid Program Branch (FTS 366-4652) or Mr. Jim Overton of his staff (FTS 366-4653).

Anthony R. Kane
Attachment

FEDERAL-AID TOLL ACTIVITIES

Type of work (activity)	Federal-aid highway eligibility/Federal share (percent)			
	Interstate		Non-interstate	
	Roads	Bridges/ tunnels	Roads	Bridges/ tunnels
Initial construction [23 USC 129(a)(1)(A)]	No	No	Yes/50	Yes/80
Reconstructing (4th R) a toll facility [23 USC 129(a)(1)(B)]	Yes/50	Yes/80	Yes/50	Yes/80
Resurfacing, restoring, and rehabilitating (3R work) on a toll facility [23 USC 129(a)(1)(B)]	Yes/50	Yes/50	Yes/50	Yes/50
Reconstructing (4th R) a toll facility with an existing section 119 or section 129 agreement under title 23 U.S.C. [23 USC 129(a)(1)(B)]	Yes/80 ¹	Yes/80 ¹	Yes/80 ¹	Yes/80 ¹
3R work on a toll facility with an existing section 119 or section 129 agreement under title 23 U.S.C. [23 USC 129(a)(1)(B)]	Yes/80 ¹	Yes/80 ¹	Yes/80 ¹	Yes/80 ¹
Reconstruction or replacement and conversion of a toll free bridge or tunnel [23 USC 129(a)(1)(C)]	No	Yes/80	Yes/50	Yes/80
Reconstruction/conversion of a toll free highway [23 USC 129(a)(1)(D)]	No	Yes/50	Yes/50	Yes/50
Preliminary feasibility studies [23 USC 129(a)(1)(E)]	Yes/50	Yes/50	Yes/50	Yes/50

¹ In the case of a toll facility subject to an agreement under section 119 or 129, the Federal share payable on any project for resurfacing, restoring, rehabilitating, or reconstructing such facility is 80% until the scheduled expiration of such agreement.

Date: March 17, 1992.

Reply to Attn. of: HNG-33.

Subject: Information: Intermodal Surface Transportation Efficiency Act (ISTEA) of 1991-Bridge Painting, Seismic Retrofit, and Acetate Application.
From: Associate Administrator for Program Development.
To: Regional Federal Highway Administrators, Federal Lands Highway Program Administrator.

The ISTEA of 1991 has revised title 23, U.S.C. to allow Federal participation in bridge painting, seismic retrofitting, and application of calcium magnesium acetate to highway bridges. These items of work are now eligible for participation with bridge program funds.

Bridge painting, seismic retrofitting, and calcium magnesium acetate application may be undertaken as sole work items or combined with other eligible work. Where bridge program funds are used, the bridges must be on a eligibility selection list provided under 23 CFR 650.409(b). For those bridges not on the selection list, Surface Transportation Program (STP) funds are available to address bridge painting, seismic retrofitting, and calcium magnesium acetate applications for bridges on public roads of all functional classifications.

These tasks are not considered reconstruction and are not subject to the 10-year rule. Therefore, Item 106 of the Coding Guide should not be updated as a result of these types of work. A record keeping system should be developed that will allow an accounting of funds expended for each of the activities.

Bridge Painting

Painting projects may include complete cleaning and repainting of the entire structure, or spot cleaning and priming of corroded or failed areas, followed by one or two full topcoats. Random spot painting as would normally be accomplished through routine or periodic maintenance is not eligible.

In special cases, painting of a portion of a bridge may be acceptable. Examples might be the clean and painting of an entire truss but not the bridge's floor beam and stringer system, or cleaning and painting of selected spans of a multi-span structure. These types of projects should be assessed on a case-by-case basis.

Painting of any extent accomplished as part of a rehabilitation project would, as in the past, be eligible.

Seismic Retrofit

The guidance in Mr. Carlson's memorandum on the subject dated January 8, 1990, is superseded. In its place the following guidance applies for seismic retrofit projects: (1) Bridges must be located within an area at risk of effective peak accelerations of 0.10 or greater, (2) the proposed retrofitting must be part of a statewide retrofit analysis and multi-year priority plan and (3) for bridges identified by the FHWA on the current selection list of deficient bridges, retrofitting may be a sole work item or included as part of the overall retrofit project. However, if a deficient bridge is programmed for

demolition, seismic retrofit is ineligible for bridge program funding unless the demolition is some time in the future, say 5 years away, then some effective inexpensive retrofit (such as longitudinal restrainers) will be acceptable as a participating item. Partial or total seismic retrofitting of an existing structure is eligible for Federal assistance whether carried out separately or in conjunction with other work.

Also, the cost to correct seismic deficiencies for otherwise non-deficient bridges will not be included in our computation of bridge needs for the purpose of future apportionments.

Calcium Magnesium Acetate Application

To minimize the administrative record keeping for tracking the use of Federal funds for application of this product, it is suggested that the funding be limited to the cost of the material. Interim payments could be made on cost estimates of materials utilized with the final payment at the end of the winter season based on the actual quantities of calcium magnesium acetate applied to eligible bridge sites.

To prevent tracking of roadway salt onto bridge decks, material quantities may include that which is applied to a length of approach roadway, and a length on each approach of approximately 2,500 feet is suggested.

Thomas O. Willett for Anthony R. Kane

Allocation of Rural Technical Assistance Program (RTAP) Funds for Operation of Technology Transfer Centers

The total amount of funding made available to the States for Fiscal Year 1992 for RTAP Centers was \$4,500,000.00 with a \$100,000.00 maximum per State. In December, three-fourths of the funds were made available and the following memoranda make available the remaining quarter.

Date: March 7, 1992.

Reply to Attn. of: HTA-12.

Subject: Allocation of Rural Technical Assistance Program (RTAP) Funds for Operation of Technology Transfer Centers in Region 01.

From: Associate Administrator for Safety and System Applications, Washington, DC 20590.

To: Mr. John G. Bestgen, Jr., Regional Federal Highway Administrator, (HRA-01).

An additional allocation of \$162,082 in RTAP funds is made to continue operation of the Technology Transfer Centers in Region 1 for the 3-month period October 1, 1992 through December 31, 1992.

This allocation is in accordance with delegations of authority to the Regions for the RTAP Technology Transfer Centers project and related correspondence. The following comments are offered for your further information and guidance:

- Appropriation code 37A and regular Federal-aid procedures should be used. A copy of your memoranda advising the divisions and authorizing obligation of the funds should be forwarded immediately to the State and Local Programs Branch (HTA-12). A copy will be provided to the Program Analysis Division (HFS-30), where the funds will be made available within the Financial

Management System (FMIS). This step is necessary before the division offices can enter the fiscal data.

- The individual amounts used to complete the Region's 1992 allocation are indicated below. Region 1 has sufficient funds available from the December allocation to complete the funding of these centers for the remainder of 1992.

State	Fiscal year 1992 allocation
Connecticut.....	0 (Fully funded)
Maine.....	0 (Fully funded)
Massachusetts.....	\$78,000
New Hampshire.....	0 (Fully funded)
New Jersey.....	\$100,000
New York.....	0 (Fully funded)
Puerto Rico.....	\$100,000
Rhode Island.....	0 (Fully funded)
Vermont.....	0 (Fully funded)

- RTAP funds allocated herewith need to be obligated and in the FMIS by June 30, 1992. Funds not under agreement by this time will need to be reallocated to national RTAP activities. Please notify the State and Local Programs Branch as soon as you become aware of funds to be released.

- Funds are to be obligated based on a work plan and budget approved by your office. Please make sure that each center is addressing the six major tasks:

- Compile and maintain a mailing list
- Publish a quarterly newsletter
- Provide technology transfer material
- Provide an information service
- Conduct or arrange at least 10 training seminars per year
- Perform a self-evaluation after the first 21 months of operation

Costs will be paid on a reimbursable basis with the RTAP share not exceeding 50 percent of the total cost at any time. A copy of the work plan, budget, and approval correspondence should be provided directly to the State and Local Programs Branch, as soon as possible.

If there are any questions about the calendar year 1992 program requirements or funding, please contact Ms. Janet A. Coleman of the State and Local Programs Branch on FTS 366-4668.

Dennis C. Judycki

Date: March 27, 1992.

Reply to Attn. of: HTA-12.

Subject: Allocation for Rural Technical Assistance Program (RTAP) Funds for Operation of Technology Transfer Centers in Region 03.

From: Associate Administrator for Safety and System Applications, Washington, DC 20590.

To: Mr. David S. Gendell, Regional Federal Highway Administrator, (HRA-03).

An additional allocation of \$75,000 in RTAP funds is made to continue operation of the Technology Transfer Centers in Region 3 for the 3-month period October 1, 1992 through December 31, 1992.

This allocation is in accordance with delegations of authority to the Regions for the

RTAP Technology Transfer Centers project and related correspondence. The following comments are offered for your further information and guidance:

- Appropriation code 37A and regular Federal-aid procedures should be used. A copy of your memoranda advising the divisions and authorizing obligation of the funds should be forwarded immediately to the State and Local Programs Branch (HTA-12). A copy will be provided to the Program Analysis Division (HFS-30), where the funds will be made available within the Financial Management System (FMIS). This step is necessary before the division offices can enter the fiscal data.

- The individual amounts used to complete the Region's 1992 allocation are indicated below.

State	Fiscal year 1992 allocation
Delaware.....	0 (Fully funded)
Maryland.....	\$25,000
Pennsylvania.....	\$25,000
Virginia.....	\$25,000
West Virginia.....	0 (Fully funded)

- RTAP funds allocated herewith need to be obligated and in the FMIS by July 30, 1992. Funds not under agreement by this time will need to be reallocated to national RTAP activities. Please notify the State and Local Programs Branch as soon as you become aware of funds to be released.

- Funds are to be obligated based on a work plan and budget approved by your office. Please make sure that each center is addressing the six major tasks:

- Compile and maintain a mailing list
- Publish a quarterly newsletter
- Provide technology transfer material
- Provide an information service
- Conduct or arrange at least 10 training seminars per year
- Perform a self-evaluation after the first 21 months of operation

Costs will be paid on a reimbursable basis with the RTAP share not exceeding 50 percent of the total cost at any time. A copy of the work plan, budget, and approval correspondence should be provided directly to the State and Local Programs Branch, as soon as possible.

If there are any questions about the calendar year 1992 program requirements or funding, please contact Ms. Janet A. Coleman of the State and Local Programs Branch on FTS 366-4668.

Dennis C. Judycki

Date: March 27, 1992.

Reply to Attn. of: HTA-12.

Subject: Allocation of Rural Technical Assistance Program (RTAP) Funds for Operation of Technology Transfer Centers in Region 04.

From: Associate Administrator for Safety and System Applications, Washington, DC 20590.

To: Mr. Leon N. Larson, Regional Federal Highway Administrator, (HRA-04).

An additional allocation of \$180,662 in RTAP fund is made to continue operation of

the Technology Transfer Centers in Region 4 for the 3-month period October 1, 1992 through December 31, 1992.

This allocation is in accordance with delegations of authority to the Regions for the RTAP Technology Transfer Centers project and related correspondence. The following comments are offered for your further information and guidance:

- Appropriation code 37A and regular Federal-aid procedures should be used. A copy of your memoranda advising the divisions and authorizing obligation of the funds should be forwarded immediately to the State and Local Programs Branch (HTA-12). A copy will be provided to the Program Analysis Division (HFS-30), where the funds will be made available within the Financial Management System (FMIS). This step is necessary before the division offices can enter the fiscal data.

- The individual amounts used to complete the Region's 1992 allocation are indicated below.

State	Fiscal year 1992 allocation
Alabama.....	\$25,000
Florida.....	25,000
Georgia.....	25,500
Kentucky.....	25,000
Mississippi.....	25,000
North Carolina.....	25,000
South Carolina.....	5,662
Tennessee.....	25,000

- RTAP funds allocated herewith need to be obligated and in the FMIS by June 30, 1992. Funds not under agreement by this time will need to be reallocated to national RTAP activities. Please notify the State and Local Programs Branch as soon as you become aware of funds to be released.

- Funds are to be obligated based on a work plan and budget approved by your office. Please make sure that each center is addressing the six major tasks:

- Compile and maintain a mailing list
- Publish a quarterly newsletter
- Provide technology transfer material
- Provide an information service
- Conduct or arrange at least 10 training seminars per year
- Perform a self-evaluation after the first 21 months of operation

Costs will be paid on a reimbursable basis with the RTAP share not exceeding 50 percent of the total cost at any time. A copy of the work plan, budget, and approval correspondence should be provided directly to the State and Local Programs Branch, as soon as possible.

If there are any questions about the calendar year 1992 program requirements or funding, please contact Ms. Janet A. Coleman of the State and Local Programs Branch on FTS 366-4668.

Dennis C. Judycki

Date: March 27, 1992.

Reply to Attn. of: HTA-12.

Subject: Allocation of Rural Technical Assistance Program (RTAP) Funds for Operation of Technology Transfer Centers in Region 05.

From: Associate Administrator for Safety and System Applications, Washington, DC 20590.

To: Mr. Herbert R. Teets, Regional Federal Highway Administrator, (HRA-05).

An additional allocation of \$125,000 in RTAP funds is made to continue operation of the Technology Transfer Centers in Region 5 for the 3-month period October 1, 1992 through December 31, 1992.

This allocation is in accordance with delegations of authority to the Regions for the RTAP Technology Transfer Centers project and related correspondence. The following comments are offered for your further information and guidance:

- Appropriation code 37A and regular Federal-aid procedures should be used. A copy of your memoranda advising the divisions and authorizing obligation of the funds should be forwarded immediately to the State and Local Programs Branch (HTA-12). A copy will be provided to the Program Analysis Division (HFS-30), where the funds will be made available within the Financial Management System (FMIS). This step is necessary before the division offices can enter the fiscal data.

- The individual amounts used to complete the Region's 1992 allocation are indicated below.

State	Fiscal year 1992 allocation
Indiana.....	\$25,000
Michigan.....	25,000
Ohio.....	25,000
Minnesota.....	0
Wisconsin.....	25,000
Illinois.....	25,000

- RTAP funds allocated herewith need to be obligated and in the FMIS by June 30, 1992. Funds not under agreement by this time will need to be reallocated to national RTAP activities. Please notify the State and Local Programs Branch as soon as you become aware of funds to be released.

- Funds are to be obligated based on a work plan and budget approved by your office. Please make sure that each center is addressing the six major tasks:

- Compile and maintain a mailing list
- Publish a quarterly newsletter
- Provide technology transfer material
- Provide an information service
- Conduct or arrange at least 10 training seminars per year
- Perform a self-evaluation after the first 21 months of operation

Costs will be paid on a reimbursable basis with the RTAP share not exceeding 50 percent of the total cost at any time. A copy of the work plan, budget, and approval correspondence should be provided directly to the State and Local Programs Branch, as soon as possible.

If there are any questions about the calendar year 1992 program requirements or funding, please contact Ms. Janet A. Coleman of the State and Local Programs Branch on FTS 366-4668.

Dennis C. Judycki

Date: March 27, 1992.

Reply to Attn. of: HTA-12.

Subject: Allocation of Rural Technical Assistance Program (RTAP) Funds for Operation of Technology Transfer Centers in Region 06

From: Associate Administrator for Safety and System Applications, Washington, DC 20590.

To: Mr. Wesley S. Mendenhall, Jr., Regional Federal Highway Administrator, (HRA-06).

An additional allocation of \$105,000 in RTAP funds is made to continue operation of the Technology Transfer Centers in Region 6 for the 3-month period October 1, 1992 through December 31, 1992.

This allocation is in accordance with delegations of authority to the Regions for the RTAP Technology Transfer Centers project and related correspondence. The following comments are offered for your further information and guidance:

- Appropriation code 37A and regular Federal-aid procedures should be used. A copy of your memoranda advising the division and authorizing obligation of the funds should be forwarded immediately to the State and Local Programs Branch (HTA-12). A copy will be provided to the Program Analysis Division (HFS-30), where the funds will be made available within the Financial Management System (FMIS). This step is necessary before the division offices can enter the fiscal data.

- The individual amounts used to complete the Region's 1992 allocation are indicated below.

State	Fiscal year 1992 allocation
Arkansas.....	\$25,000
Louisiana.....	25,000
New Mexico.....	5,000
Oklahoma.....	25,000
Texas.....	25,000

- RTAP funds allocated herewith need to be obligated and in the FMIS by June 30, 1992. Funds not under agreement by this time will need to be reallocated to national RTAP activities. Please notify the State and Local Program Branch as soon as you become aware of funds to be released.

- Funds are to be obligated based on a work plan and budget approved by your office. Please make sure that each center is addressing the six major tasks:

- Compile and maintain a mailing list
- Publish a quarterly newsletter
- Provide technology transfer material
- Provide an information service
- Conduct or arrange at least 10 training seminars per year

- Perform a self-evaluation after the first 21 months of operation

Costs will be paid on a reimbursable basis with the RTAP share not exceeding 50 percent of the total cost at any time. A copy of the work plan, budget, and approval correspondence should be provided directly to the State and Local Programs Branch, as soon as possible.

If there are any questions about the calendar year 1992 program requirements or funding, please contact Ms. Janet A. Coleman of the State and Local Programs Branch on FTS 366-4668.

Dennis C. Judycki

Date: March 27, 1992.

Reply to Attn. of: HTA-12.

Subject: Allocation of Rural Technical Assistance Program (RTAP) Funds for Operation of Technology Transfer Centers in Region 07.

From: Associate Administrator for Safety and System Applications, Washington, DC 20590.

To: Mr. Volmer K. Jensen, Regional Federal Highway Administrator, (HRA-07).

An additional allocation of \$115,000 in RTAP funds is made to continue operation of the Technology Transfer Centers in Region 7 for the 3-month period October 1, 1992 through December 31, 1992.

This allocation is in accordance with delegations of authority to the Regions for the RTAP Technology Transfer Centers project and related correspondence. The following comments are offered for your further information and guidance:

- Appropriation code 37A and regular Federal-aid procedures should be used. A copy of your memoranda advising the divisions and authorizing obligation of the funds should be forwarded immediately to the State and Local Programs Branch (HTA-12). A copy will be provided to the Program Analysis Division (HFS-30), where the funds will be made available within the Financial Management System (FMIS). This step is necessary before the division offices can enter the fiscal data.

- The individual amounts used to complete the Region's 1992 allocation are indicated below.

State	Fiscal year 1992 allocation
Iowa.....	\$25,000
Kansas.....	25,000
Missouri.....	40,000
Nebraska.....	25,000

- RTAP funds allocated herewith need to be obligated and in the FMIS by June 30, 1992. Funds not under agreement by this time will need to be reallocated to national RTAP activities. Please notify the State and Local Programs Branch as soon as you become aware of funds to be released.

- Funds are to be obligated based on a work plan and budget approved by your office. Please make sure that each center is addressing the six major tasks:

- Compile and maintain a mailing list
- Publish a quarterly newsletter

- Provide technology transfer material
- Provide an information service
- Conduct or arrange at least 10 training seminars per year

- Perform a self-evaluation after the first 21 months of operation

Costs will be paid on a reimbursable basis with the RTAP share not exceeding 50 percent of the total cost at any time. A copy of the work plan, budget, and approval correspondence should be provided directly to the State and Local Programs Branch, as soon as possible.

If there are any questions about the calendar year 1992 program requirements or funding, please contact Ms. Janet A. Coleman of the State and Local Programs Branch of FTS 366-4668.

Dennis C. Judycki

Date: March 27, 1992.

Reply to Attn. of: HTA-12.

Subject: Allocation of Rural Technical Assistance Program (RTAP) Funds for Operation of Technology Transfer Centers in Region 08.

From: Associate Administrator for Safety and System Applications, Washington, DC 20590.

To: Mr. Louis N. MacDonald, Regional Federal Highway Administrator, (HRA-08).

An additional allocation of \$146,019 in RTAP funds is made to continue operation of the Technology Transfer Centers in Region 8 for the 3-month period October 1, 1992 through December 31, 1992.

This allocation is in accordance with delegations of authority to the Regions for the RTAP Technology Transfer Centers project and related correspondence. The following comments are offered for your further information and guidance:

- Appropriation code 37A and regular Federal-aid procedures should be used. A copy of your memoranda advising the divisions and authorizing obligation of the funds should be forwarded immediately to the State and Local Programs Branch (HTA-12). A copy will be provided to the Program Analysis Division (HFS-30), where the funds will be made available within the Financial Management System (FMIS). This step is necessary before the division offices can enter the fiscal data.

- The individual amounts used to complete the Region's 1992 allocation are indicated below.

State	Fiscal year 1992 allocation
Colorado.....	\$22,500
Montana.....	25,000
North Dakota.....	23,519
South Dakota.....	25,000
Utah.....	25,000
Wyoming.....	25,000

- RTAP funds allocated herewith need to

be obligated and in the FMIS by June 30, 1992. Funds not under agreement by this time will need to be reallocated to national RTAP activities. Please notify the State and Local Programs Branch as soon as you become aware of funds to be released.

• Funds are to be obligated based on a work plan and budget approved by your office. Please make sure that each center is addressing the six major tasks:

- Compile and maintain a mailing list
- Publish a quarterly newsletter
- Provide technology transfer material
- Provide an information service
- Conduct or arrange at least 10 training seminars per year
- Perform a self-evaluation after the first 21 months of operation

Costs will be paid on a reimbursable basis with the RTAP share not exceeding 50 percent of the total cost at any time. A copy of the work plan, budget, and approval correspondence should be provided directly to the State and Local Programs Branch, as soon as possible.

If there are any questions about the calendar year 1992 program requirements or funding, please contact Ms. Janet A. Coleman of the State and Local Programs Branch on FTS 366-4668.

Dennis C. Judycki

Date: March 27, 1992.

Reply to Attn. of: HTA-12.

Subject: Allocation of Rural Technical Assistance Program (RTAP) Funds for Operation of Technology Transfer Centers in Region 09.

From: Associate Administrator for Safety and System Applications, Washington, DC 20590.

To: Mr. Edwin M. Wood, Regional Federal Highway Administrator, (HRA-09).

An additional allocation of \$81,250 in RTAP funds is made to continue operation of the Technology Transfer Centers in Region 9 for the 3-month period October 1, 1992 through December 31, 1992.

This allocation is in accordance with delegations of authority to the Regions for the RTAP Technology Transfer Centers project and related correspondence. The following comments are offered for your further information and guidance:

• Appropriation code 37A and regular Federal-aid procedures should be used. A copy of your memoranda advising the divisions and authorizing obligation of the funds should be forwarded immediately to the State and Local Programs Branch (HTA-12). A copy will be provided to the Program Analysis Division (HFS-30), where the funds will be made available within the Financial Management System (FMIS). This step is necessary before the division offices can enter the fiscal data.

• The individual amounts used to complete the Region's 1992 allocation are indicated below.

State	Fiscal year 1992 allocation
Arizona.....	\$25,000
California.....	25,000
Hawaii.....	12,500
Nevada.....	18,750

• RTAP funds allocated herewith need to be obligated and in the FMIS by June 30, 1992. Funds not under agreement by this time will need to be reallocated to national RTAP activities. Please notify the State and Local Programs Branch as soon as you become aware of funds to be released.

• Fund are to be obligated based on a work plan and budget approved by your office. Please make sure that each center is addressing the six major tasks:

- Compile and maintain a mailing list
- Publish a quarterly newsletter
- Provide technology transfer material
- Provide an information service
- Conduct or arrange at least 10 training seminars per year
- Perform a self-evaluation after the first 21 months of operation

Costs will be paid on a reimbursable basis with the RTAP share not exceeding 50 percent of the total cost at any time. A copy of the work plan, budget, and approval correspondence should be provided directly to the State and Local Programs Branch, as soon as possible.

If there are any questions about the calendar year 1992 program requirements or funding, please contact Ms. Janet A. Coleman of the State and Local Programs Branch on FTS 366-4668.

Dennis C. Judycki

Date: March 27, 1992.

Reply to Attn. of: HTA-12.

Subject: Allocation of Rural Technical Assistance Program (RTAP) Funds for Operation of Technology Transfer Centers in Region 10.

From: Associate Administrator for Safety and System Applications, Washington, DC 20590.

To: Mr. Jerald P. Clark, Regional Federal Highway Administrator, (HRA-10).

An additional allocation of \$100,000 in RTAP funds is made to continue operation of the Technology Transfer Centers in Region 10 for the 3-month period October 1, 1992 through December 31, 1992.

This allocation is in accordance with delegations of authority to the Regions for the RTAP Technology Transfer Centers project and related correspondence. The following comments are offered for your further information and guidance:

• Appropriation code 37A and regular Federal-aid procedures should be used. A copy of your memoranda advising the divisions and authorizing obligation of the funds should be forwarded immediately to the State and Local Programs Branch (HTA-12). A copy will be provided to the Program Analysis Division (HFS-30), where the funds will be made available within the Financial Management System (FMIS). This step is

necessary before the division offices can enter the fiscal data.

• The individual amounts used to complete the Region's 1992 allocation are indicated below.

State	Fiscal year 1992 allocation
Alaska.....	\$25,000
Idaho.....	25,000
Oregon.....	25,000
Washington.....	25,000

• RTAP funds allocated herewith need to be obligated and in the FMIS by June 30, 1992. Funds not under agreement by this time will need to be reallocated to national RTAP activities. Please notify the State and Local Programs Branch as soon as you become aware of funds to be released.

• Funds are to be obligated based on a work plan and budget approved by your office. Please make sure that each center is addressing the six major tasks:

- Compile and maintain a mailing list.
- Publish a quarterly newsletter.
- Provide technology transfer material.
- Provide an information service.
- Conduct or arrange at least 10 training seminars per year.
- Perform a self-evaluation after the first 21 months of operation.

Costs will be paid on a reimbursable basis with the RTAP share not exceeding 50 percent of the total cost at any time. A copy of the work plan, budget, and approval correspondence should be provided directly to the State and Local Programs Branch, as soon as possible.

If there are any questions about the calendar year 1992 program requirements or funding, please contact Ms. Janet A. Coleman of the State and Local Programs Branch on FTS 366-4668.

Dennis C. Judycki

Date: March 31, 1992.

Reply to Attn. of: HNG-13.

Subject: Information: Intermodal Surface Transportation Efficiency Act (ISTEA) Implementation of Section 1014.

From: Associate Administrator for Program Development.

To: Regional Federal Highway Administrators, Division Administrators, Federal Lands Highway Program Administrator.

Section 1014 of the 1991 ISTEA added a new Chapter 160 to Title 23, United States Code, providing for the "Reimbursement for Segments of the Interstate System Constructed Without Federal Assistance." The reimbursement concept is an outgrowth of section 114 of the Federal-Aid Highway Act of 1956, which directed the Bureau of Public Roads "to determine whether or not the Federal Government should equitably reimburse any State for a portion of a highway which is on the Interstate System, whether toll or free, the construction of which has been completed subsequent to August 2,

1947, or which is either in actual use or under construction by contract, for completion, awarded not later than June 30, 1957 * * *"

The results of that study were reported to Congress on January 7, 1958, and identified \$4.967 billion as the equitable reimbursement amount, split almost evenly between the non-Federal share of toll and free roads. An excerpt from that study report is attached. In the 1991 ISTEA, the same reimbursement amount is shown in section 1014 (23 U.S.C. 160(c)) in the reimbursement table as the "Original Cost in Millions." The Congress therein computed its own "Reimbursement

Percentage" and total "Reimbursement Amount in Millions," providing at least 0.5 percent on each State.

Section 160(f) authorizes \$2 billion annually for the Reimbursement Program for fiscal years 1996 and 1997. Section 160(d) provides that reimbursement funds will be transferred to the Surface Transportation Program, and will be administered in accordance with 23 U.S.C. 133, except that 50 percent of the transferred amounts are exempt from the requirements of 23 U.S.C. 133(d)(1), (d)(2), and (d)(3).

The act also dictates specific Kansas projects to be funded with the amounts allocated to that State in fiscal years 1996 and 1997, and that the provisions of Section 160(d) and 133(d)(3) of title 23 do not apply to the allocations to Kansas in those years.

Questions regarding Section 1014 should be directed to Don Marttila of the Interstate and Program Support Branch FTS 366-4637.

Anthony R. Kane
Attachment

BILLING CODE 4910-22-M

TABLE A-2.—Distribution of costs: Toll roads and free roads; non-Federal aid and Federal aid
[In millions]

State	Toll roads			Free roads			Total		
	Non-Federal aid	Federal aid	Total	Non-Federal aid	Federal aid	Total	Non-Federal aid	Federal aid	Total
Alabama.....				\$9.0	\$9.7	\$18.7	\$9.0	\$9.7	\$18.7
Arizona.....				19.9	25.0	44.9	19.9	25.0	44.9
Arkansas.....				6.1	8.9	15.0	6.1	8.9	15.0
California.....	\$26.4		\$26.4	271.7	87.5	359.2	298.1	87.5	385.6
Colorado.....				22.7	24.8	47.5	22.7	24.8	47.5
Connecticut.....	47.1		47.1	286.9	15.5	302.4	314.0	15.5	329.5
Delaware.....	39.2		39.2				39.2		39.2
Florida.....	20.7		20.7	10.0	5.4	15.4	30.7	5.4	36.1
Georgia.....	5.9	\$1.7	7.6	40.1	22.5	62.6	46.0	24.2	70.2
Idaho.....				4.8	7.5	12.3	4.8	7.5	12.3
Illinois.....	272.8		272.8	201.7	84.4	286.1	474.5	84.4	558.9
Indiana.....	148.5		148.5	18.5	16.2	34.7	167.0	16.2	183.2
Iowa.....	1.2		1.2	4.1	7.0	11.1	5.3	7.0	12.3
Kansas.....	88.9		88.9	12.2	10.3	22.5	101.1	10.3	111.4
Kentucky.....	28.0		28.0	5.6	6.5	12.1	31.6	6.5	38.1
Louisiana.....				21.7	12.6	34.3	21.7	12.6	34.3
Maine.....	30.4		30.4	7.8	3.7	11.5	38.2	3.7	41.9
Maryland.....	86.7		86.7	68.9	13.4	82.3	133.6	13.4	147.0
Massachusetts.....	173.9		173.9	109.2	13.2	122.4	283.1	13.2	296.3
Michigan.....	73.3		73.3	184.8	59.8	244.6	228.1	59.8	287.9
Minnesota.....				15.9	10.8	26.7	15.9	10.8	26.7
Mississippi.....				54.1	6.6	60.7	6.4	6.6	13.0
Missouri.....	20.0		20.0	54.1	46.1	100.2	74.1	46.1	120.2
Montana.....				5.0	11.1	16.1	5.0	11.1	16.1
Nebraska.....	.7		.7	2.2	9.7	11.9	1.1	9.7	10.8
Nevada.....				2.2	9.7	11.9	2.2	9.7	11.9
New Hampshire.....	4.5		4.5	3.8	2.3	6.1	8.3	2.3	10.6
New Jersey.....	311.3		311.3	41.3	22.0	63.3	352.6	22.0	374.6
New Mexico.....				7.6	13.7	21.3	7.6	13.7	21.3
New York.....	607.5		607.5	321.6	133.5	455.1	929.1	133.5	1,062.6
North Carolina.....				35.7	24.2	59.9	35.7	24.2	59.9
North Dakota.....				3.4	4.5	7.9	3.4	4.5	7.9
Ohio.....	166.5		166.5	90.9	50.7	141.6	287.4	50.7	338.1
Oklahoma.....	72.7		72.7	18.4	13.7	32.1	91.1	13.7	104.8
Oregon.....	4.1		4.1	74.1	31.9	106.0	78.2	31.9	110.1
Pennsylvania.....	219.9		219.9	133.8	102.4	236.2	353.7	102.4	456.1
Rhode Island.....				12.4	6.9	19.3	12.4	6.9	19.3
South Carolina.....				4.4	5.4	9.8	4.4	5.4	9.8
South Dakota.....				5.1	5.2	10.3	5.1	5.2	10.3
Tennessee.....				7.1	9.2	16.3	7.1	9.2	16.3
Texas.....	42.5		42.5	157.7	97.2	254.9	200.2	97.2	297.4
Utah.....				5.9	13.5	19.4	5.9	13.5	19.4
Vermont.....				1.3	3.2	4.5	1.3	3.2	4.5
Virginia.....	90.8		90.8	13.9	14.5	28.4	110.7	14.5	125.2
Washington.....	2.8		2.8	70.1	20.8	90.9	72.9	20.8	93.7
West Virginia.....				5.3	4.5	9.8	5.3	4.5	9.8
Wisconsin.....				7.6	5.5	13.1	7.6	5.5	13.1
Wyoming.....				8.9	15.6	24.5	8.9	15.6	24.5
District of Columbia.....				8.6	9.2	17.8	8.6	9.2	17.8
Total.....	2,590.3	1.7	2,592.0	2,376.6	1,127.0	3,503.6	4,966.9	1,128.7	6,095.6

Date: April 6, 1992.

Reply to Attn. of: HEP-11, TGM-21.

Subject: Information: Interim Guidance on the ISTEA Metropolitan Planning Requirements.

From: Federal Highway Associate Administrator for Program Development, Federal Transit Associate Administrator for Grants Management.

To: Regional Federal Highway Administrators, Federal Transit Area Directors and Regional Administrators.

The purpose of the attached Interim Guidance on the ISTEA Metropolitan Planning Requirements is to provide guidance to the FHWA and FTA field offices as well as States and MPOs on addressing the ISTEA metropolitan planning requirements pending the issuance of formal guidance through the rulemaking process. The guidance is intended to clarify and emphasize the statutory requirements that must be met and to provide target dates by which the MPOs and States will be expected to comply with the various provisions. Guidance on the initial phase of the Congestion Management System that is required in transportation management areas is also provided.

In addition to the Interim Guidance, we are also providing a Summary of Target Dates For Implementing Certain ISTEA Metropolitan Planning Requirements. This Summary is intended as a quick reference and should be used in conjunction with the Interim Guidance to fully understand the phase-in-schedule and overall guidance being provided.

Copies of the Interim Guidance should be provided to the State transportation agency, transit operators, MPOs, and the Governor's Office. In addition, it may be provided to other interested individuals or organizations. We expect to formally publish the Interim Guidance in the Federal Register shortly. Questions on the Interim Guidance should be directed to Mr. Robert Kirkland (FTA, TGM-21, FTS 366-1612) or Mr. Dean Smeins (FHWA, HEP-11, FTS 366-9227).

Anthony R. Kane

Robert H. McManus

Attachments

Summary of Target Dates for Implementing Certain ISTEA Metropolitan Planning Requirements

Designation of MPOs in New Urbanized Areas (UZAS)

- MPOs should be designated as soon as possible, but will need to be designated in time to develop and approve a TIP by 10/1/92.

Metropolitan Boundaries for the Planning Process

- Metropolitan area boundaries should be established as soon as possible, but will need to be established in time to ensure that the process, plan, and transportation improvement program (TIP) fully cover the metropolitan area no later than October 1, 1993.

Planning Process

- Except for the requirement to consider the results of the management systems, full compliance with all of the ISTEA requirements for the planning process is expected by 10/1/93 for UZAs designated by Census prior to the 1990 Census.

- It is expected that MPOs in new UZAs designated as a result of the 1990 Census will meet the metropolitan planning requirements within three years from date of enactment of the ISTEA (by 12/18/94).

Long Range Transportation Plan

- Except for considering the results of the management systems, it is expected that all plans in nonattainment areas will be updated to fully comply with the ISTEA requirements by 10/1/93.

- Plans for areas not designated as nonattainment should be updated as soon as possible, but no later than 12/18/94.

Transportation Improvement Program (TIP)

- As soon as possible, but no later than 7/1/92, the Governor or the Governor's designee must approve any new or amended TIP.

- It is expected that the flexibility provisions will receive full consideration in the development of TIPs for MPO/State FYs beginning on or after 7/1/92.

- For urbanized areas designated prior to the 1990 Census, a TIP for a MPO/State fiscal year beginning on or after 7/1/92 should address all of the ISTEA requirements and should be developed for the metropolitan area.

- Although MPOs in newly designated UZAs will be given three years to establish a planning process, they will need to work with the State and transit operator to develop and approve a TIP by 10/1/92 that includes all projects to be funded under Title 23 or the FTA.

Project Selection

- Until July 1, 1992, States and transit operators may proceed with projects (except for projects in TMAs that are to be funded with suballocated STP funds) included in the annual element of the current TIP. For projects to be funded with suballocated STP funds, the State/transit operator must receive the concurrence of the MPO before proceeding.

- The States, transit operators, and the MPO must develop appropriate project selection procedures for projects to be implemented between July 1, 1992 and October 1, 1992 in both TMAs and nonTMAs.

- Projects outside the area covered by a current TIP but within the designated metropolitan area or in a new UZA can proceed through 10/1/92 if included in an approved 105 program or a Section 18 program. However, beginning 7/1/92, the appropriate selection procedures will need to be satisfied.

- The required project selection procedures should be fully implemented by 10/1/92.

Congestion Management System (CMS)

- For the initial phase of the phase-in schedule for implementation of the CMS, a currently self-certified planning process in conjunction with the NEPA process can constitute an interim congestion management system provided that it meets the specified criteria.

Note.—This schedule only discusses the implementation dates for certain Metropolitan planning provisions and must be read in conjunction with the interim guidance to fully understand the phase-in schedule and overall guidance being provided by FHWA and FTA.

Interim Guidance on ISTEA Metropolitan Planning Requirements

General

The purpose of this document is to provide interim guidance to the FHWA and FTA field offices on addressing the ISTEA metropolitan planning requirements pending the issuance of formal guidance through the rulemaking process. The guidance is intended to clarify and emphasize the statutory requirements that must be met and to provide target dates by which the MPOs and States will be expected to comply with the various provisions. In a few cases, suggestions on how to meet certain requirements in a more flexible and/or simplified manner are provided, e.g.,:

- Preliminary views on use of abbreviated procedures in certain non-transportation management areas that are not nonattainment for ozone or carbon monoxide.

- Suggestions for simplified project selection procedures once the TIP has been developed in accordance with the ISTEA requirements, i.e., prioritized, financially reasonable, and approved by both the MPO and the Governor.

In the case of the requirement for development of a congestion management system (CMS) in TMAs, the guidance addresses phase 1 of the phase-in schedule the Secretary is required to provide. In phase 1, the existing urban transportation planning process in conjunction with the NEPA process can constitute an interim CMS if

certain criteria are met. In TMA's that are also nonattainment areas for ozone and/or carbon monoxide, this would provide a mechanism to determine whether single occupant vehicles projects will be in compliance with the CMS requirement.

Designation of MPOs in New Urbanized Areas (UZAs)

Provision—For each UZA over 50,000 population, an MPO must be designated by agreement between the Governor and local units of government representing 75% of affected population (in the metropolitan area) including the central cities or cities as defined by the Bureau of the Census, or in accordance with procedures established by applicable state or local law. (23 U.S.C. 134(b)(1)/FTA-Sec 8(b)(1))

Guidance—These requirements should be followed in designating MPOs for new UZAs. States and local officials involved in new UZAs designated as a result of the 1990 Census should initiate discussions on the designation of MPOs as soon as possible. MPOs will need to be designated in time to develop and approve a TIP by 10/1/92.

Provision—More than one MPO can be designated within an urbanized area only if the Governor determines that the size and complexity of the urbanized area make designation of more than one MPO appropriate. (23 U.S.C. 134(b)(6)/FTA-Sec 8(b)(6))

Guidance—We do not expect this to be the case in new urbanized areas.

Redesignation of a MPO to Replace an Existing MPO

Provision—Existing MPO designations remain valid until a new MPO is redesignated unless revoked by the Governor and local units of government representing 75% of the affected population (in the metropolitan area), or as otherwise provided under State or local procedures. The new MPO must be designated by agreement between the Governor and local units of government representing 75% of affected population (in the metropolitan area) including the central cities or cities as defined by the Bureau of the Census. (23 U.S.C. 134(b)(4)&(5)(A)/FTA-Sec. 8(b)(4)&(5)(A))

Guidance—If the Governor and local officials decide to designate a new MPO but do not formally revoke the existing MPO designation, the existing MPO remains in effect until a new MPO is formally designated.

Provision—Redesignation of the MPO is mandated only if such redesignation is requested by a unit or units of local government representing 25% or more of the affected population (in the metropolitan area) including the central city or cities as defined by the Bureau of the Census in any area meeting either of

the following conditions (1) the UZA has a population more than 5,000,000 but less than 10,000,000 or (2) the area is an extreme nonattainment area for ozone or carbon monoxide. At present this provision only applies to Chicago and Los Angeles. (23 U.S.C. 134(b)(5)(B)/FTA-Sec. 8(b)(5)(B))

Guidance—If local officials representing at least 25% of the affected population (including the central city or cities) in Chicago or Los Angeles request redesignation of the MPO, a new MPO must be redesignated by agreement between the Governor and local units of government representing 75% of affected population (in the metropolitan area) including the central city or cities. The existing MPO designation would remain in effect until the new MPO is formally designated.

Provision—For MPOs in TMA's designated/redesignated subsequent to enactment, local elected officials, officials of agencies that administer or operate major modes of transportation (including all transportation agencies that were included in the MPO on June 1, 1991), and appropriate State officials must be represented on the MPO. (23 U.S.C. 134(b)(2)/FTA-Sec. 8(b)(2))

Guidance—While not required unless a MPO is redesignated, existing MPOs (in cooperation with States) are encouraged to provide agencies that operate major modes of transportation a voice in the decisionmaking process. Adding such agencies to a MPO will NOT, in itself, constitute a redesignation action.

Provision—More than one MPO may be designated within an urbanized area only if the Governor determines that the size and complexity of the urbanized area make designation of more than one MPO appropriate. (23 U.S.C. 134(b)(6))/FTA-Sec. 8(b)(6))

Guidance—Any proposal to designate more than one MPO for an area where only one MPO currently exists needs to be carefully considered by the Governor to ensure that the size and complexity of the transportation problems clearly require the designation of more than one MPO and that the action will result in the continuation of a fully coordinated and cooperative process for the entire metropolitan area that can be certified.

Metropolitan Boundaries for the Planning Process in New & Previously Designated UZAs

Provision—Metropolitan boundaries define the area (referred to as "metropolitan area") in which a metropolitan planning process must be carried out. The boundaries are determined by agreement between the MPO and the Governor and must

encompass the current urbanized area and area expected to be urbanized during a 20 year forecast period. The boundaries may encompass the entire MSA or CMSA. In nonattainment areas for ozone and/or carbon monoxide, the boundaries must encompass the entire nonattainment area, unless the MPO and the Governor decide to exclude a portion of the nonattainment area. (23 U.S.C. 134 (c)/FTA-Sec. 8(b)(6))

Guidance—The planning areas covered by the MPOs for new UZAs should be established in accordance with these criteria. The current planning/study area boundaries for previously designated MPOs should be reviewed and modified if necessary to comply with this criteria. Metropolitan area boundaries complying with these criteria should be established as soon as possible, but will need to be established in time to ensure that the process, plan, and transportation improvement program (TIP) fully cover the metropolitan area no later than October 1, 1993.

In nonattainment areas if the MPO and the Governor agree to exclude a portion of the nonattainment area, they must be able to demonstrate how conformity will be ensured in the excluded portion. Such proposals should be coordinated with FHWA, FTA, EPA, the State transportation agency, and the State air quality agency before a final decision is made.

Where the metropolitan boundaries for a previously designated MPO need to be expanded, the membership on the MPO policy body, etc., should be reviewed to ensure that the added area has appropriate representation. Adding membership to the policy body does not automatically require designation of the MPO. To the extent possible, it is encouraged that this be done without a formal redesignation. The State and MPO will need to review the previous MPO designation, State and local law, MPO bylaws, etc. to determine if this can be accomplished without a formal redesignation. If redesignation is considered necessary, the existing MPO will remain in effect until a new MPO is formally designated or the existing designation is formally revoked in accordance with the procedures discussed above. Formal approval of the metropolitan boundaries by FHWA or FTA is not required. However, metropolitan area boundary maps will need to be submitted to FHWA and FTA so these agencies can meet their program responsibilities.

Coordination Between MPOS and States

Provision—If more than one MPO has authority in a metropolitan area or an area which is designated as nonattainment for ozone or carbon monoxide, the MPOs must consult with each other and the State(s) in the coordination of plans and programs. (23 U.S.C. 134(e)/FTA-Sec. 8(e))

Guidance—In those those areas where this provision is applicable, coordination efforts should be initiated and the results documented in subsequent transmittals of plans and programs to the State, FHWA, and FTA.

Provision—For multistate metropolitan areas, the Secretary must issue appropriate requirements to encourage Governors and MPOs to provide a coordinated planning process for the entire metropolitan area. (23 U.S.C. 134(d)/FTA-Sec. 8(d))

Guidance—Governors and MPOs are encouraged to initiate appropriate actions to provide a coordinated planning process without waiting for DOT to issue formal requirements.

Transportation Management Areas (TMAS)

Provision—The Secretary must designate as transportation management areas all urbanized areas over 200,000 population. (23 U.S.C. 134(i)/FTA-Sec. 8(i))

Guidance—Through a Federal Register Notice, TMAs will be designated for all UZAs over 200,000 population as determined by the 1990 Census urbanized area population. TMAs are subject to the special requirements applicable to such areas regarding congestion management systems, project selection and certification. The TMA designation applies to the metropolitan area established by the MPO and the Governor. A list of the UZAs over 200,000 which are to be designated as TMAs is attached.

Provision—Additional areas will be designated as TMAs if the Governor and the MPO (or affected local officials) request designation. (23 U.S.C. 134(i)/FTA-Sec. 8(i))

Guidance—It should be understood that designation of an area as a TMA subjects that area to the special requirements applicable to TMAs and does not provide any additional financial benefits to the area, e.g., it does not result in the area being classified as an urbanized area over 200,000 population and thus entitled to earmarked STP funds. Designation of an urbanized area under 200,000 as a TMA does allow FTA Section 9 funds to be used for highway purposes if certain

condition are met, and it also gives greater project selection authority to the MPO. For the interim, any requests should be acted on jointly by the appropriate FHWA and FTA field offices after consultation with headquarters offices.

Planning Process

Provision—The Act lists 15 factors that must be considered as part of the planning process for all metropolitan areas. (23 U.S.C. 134(f)/FTA-Sec. 8(f))

Guidance—MPOs in cooperation with the States and transit operators should begin reviewing their existing plan processes to see if these factors are being adequately considered, and where necessary, modify their processes to consider any factors that are not currently being adequately considered. The consideration of these factors should be explicitly reflected in the planning process products.

Except for the requirement to consider the results of the management systems, it is expected that MPOs for UZAs designated before the 1990 census will comply with all of the ISTEA requirements for the planning process by 10/1/93.

Note—Subsection 1017(c) (Preservation of Transportation Corridors Report) of the ISTEA requires the Secretary to submit a report to Congress by 12/18/93 listing the rights-of-way identified for preservation by the MPOs and the States under sections 134 and 135 of title 23. The report is to include the mileage involved, an estimate of total costs (right-of-way), and a strategy for preventing further loss of rights-of-way including the desirability of creating a transportation right-of-way land bank to preserve vital corridors. MPOs and States will be asked to develop the required information on the transportation corridors to be preserved through the Section 134 and Section 135 transportation planning processes and to provide information to FHWA for inclusion in the report to Congress. It will be acceptable to estimate right-of-way costs using costs per mile for various land use/facility types. Any views on preservation strategies would also be welcomed.

Provision—The Secretary may prescribe abbreviated procedures for the development of plans and programs in areas not designated as TMAs based on complexity of transportation problems. However, abbreviated procedures may not be prescribed in nonattainment areas. (23 U.S.C. 134(j)/FTA-Sec. 8(j))

Guidance—Pending the issuance of further guidance, the MPOs for UZAs designated prior to the 1990 Census that meet the criteria for areas in which the Secretary may prescribe abbreviated procedures should continue to carry on the planning process they currently have in place. Abbreviated procedures may

not be prescribed in nonattainment areas.

For newly designated UZAs, State, transit operators, and local officials, in consultation with FHWA and FTA, should initiate discussions as to the procedures they believe will be appropriate for developing transportation plans and programs to address the transportation problems in the area. Consideration should be given to the complexity of the existing transportation problems, the growth rate of the area, e.g., fast, moderate or slow, the appropriateness of the factors specified for consideration in the Act, and the desirability of continuing any planning process that has already been established. Areas experiencing fast growth and serious transportation problems should give full consideration to a planning process that addresses all of the general requirements of the Act. As a minimum, all areas will be expected to have a simplified planning process that results in the development of a plan adopted by the MPO and a TIP approved by the MPO and the Governor.

It is expected that MPOs in new UZAs designated as a result of the 1990 Census will meet the metropolitan planning requirements within three years from date of enactment of the ISTEA (by 12/18/94).

Long Range Transportation Plan

Provision—A long range plan for each metropolitan area is to be prepared and updated under a schedule determined appropriate by the Secretary. The long range plan must: identify all transportation facilities (including pedestrian walkways and bicycle transportation facilities), include a financial plan that demonstrates how the long range plan can be implemented, assess capital investment and other measures necessary to preserve the existing transportation system and to make the most efficient transportation facilities to relieve congestion, and indicate appropriate transportation enhancement activities. There must be reasonable opportunity for public comment on the long range plan before it is approved. (23 U.S.C. 134(a)&(g)/FTA-Sec. 8(a)&(g)).

Guidance—Pending further guidance, MPOs should initiate activities to update their plans to address a 20-year forecast period, to encompass the required metropolitan area and to reflect all of the items specified for inclusion in the plan, as necessary. Consideration should also be given to the need for modifying existing public involvement procedures so that citizens, affected public agencies, representatives of

transportation agency employees, private providers of transportation, and other interested parties have a reasonable opportunity to comment on the proposed plan. Such procedures should include opportunities for interested parties to be involved in the early stages of the plan development/update process. The procedures should include publication of the plan or other methods to make it readily available for public review.

The financial plan should compare the annual revenue from existing and proposed funding sources that are dedicated to transportation uses, and the annual costs of constructing, maintaining and operating the transportation system over the period of the long range plan. The annual revenue by existing revenue source (at the local, State, and Federal level) dedicated to transportation projects should be calculated and any shortfalls identified. Proposed new revenues and/or revenue sources to cover shortfalls should be identified. Existing and proposed revenues should cover all forecasted capital, operating, and maintenance costs. All cost and revenue projections should be based on the best available data and trends. While MPOs and States must adopt plans that meet these requirements, this does not preclude them from also developing an unconstrained "needs" plan.

Except for considering the results of the management systems, it is expected that all plans in nonattainment areas will be updated to fully comply with the ISTEA requirements by 10/1/93. Plans for areas not designated as nonattainment should be updated as soon as possible, but no later than 12/18/94.

Although transportation plans do not need to be approved by FHWA or FTA, copies of any new/revised plans must be provided to each agency. Additionally in nonattainment areas for transportation related pollutants, FHWA and FTA as well as the MPO will need to make a conformity determination on any new/revised plan in accordance with the CAA requirements and the EPA/DOT Conformity Guidance.

Transportation Improvement Program (TIP)

Provision—A TIP must be developed for each metropolitan area by the MPO in cooperation with the State and transit operators. The TIP must be updated and approved at least every two years by the MPO and the Governor. It must include all projects (including pedestrian walkways and bicycle transportation facilities) to be funded under Title 23 and the FTA. There must be reasonable

opportunity for public comment prior to approval. The TIP must include a priority list of projects to be carried out in each 3 year period after initial adoption of the TIP and a financial plan that demonstrates how it can be implemented. It must be consistent with funding reasonably expected to be available during the relevant period, and projects in the TIP must be consistent with the long range plan. (23 U.S.C. 134(a)&(h)/FTA-Sec. 8(a)&(h)).

Guidance—Pending further guidance, MPOs should consider the need to modify their TIPs to encompass the required metropolitan area and to include all of the items specified for inclusion in the TIP, e.g., priority lists of projects to be carried out in each 3 year period and a complementary financial plan. Where appropriate activities should be initiated to address specified items not currently included. As a minimum, the priority lists should group the projects that are to be undertaken in each of the years, e.g., year 1, year 2, year 3. In order demonstrate that funding can reasonably be expected to be available, the projects for each year should be grouped by the proposed funding categories. Current regulations permit minor projects, e.g., safety projects, to be grouped rather than listed individually. Pending further guidance, such projects may continue to be grouped. As the law provides, TIPs may be longer than 3 years if these TIPs identify priorities and financial information for the outyears.

Procedures or agreements that distribute suballocated STP or Section 9 funds to individual jurisdictions or modes within the metropolitan area by predetermined percentages or formulas are inconsistent with the ISTEA provisions that require MPOs in cooperation with the State and transit operators to develop a prioritized and financially reasonable TIP unless they can be clearly shown to be based on considerations required to be addressed as part of the planning process. Such procedures and agreements otherwise ignore the dynamics of the planning process, hinder response to the high priority problems identified through the planning process, and frustrate the flexibility features of the ISTEA.

Since Federal Lands Highway projects must be included in the TIP, the MPO and the State will need to work with the agencies involved in the Federal Lands Highway Program at both the plan and TIP development stages to ensure full consideration of such projects.

Consideration should also be given to the need to establish or modify existing public involvement procedures so that citizens, affected public agencies,

representatives of transportation agency employees, private providers of transportation, and other interested parties have a reasonable notice of and opportunity to comment on the proposed TIP. Again the procedures should include opportunities for early involvement in the TIP development process. As soon as possible, but no later than 7/1/92, the Governor or the Governor's designee must approve any new or amended TIP. Although individual metropolitan area TIPs do not need to be approved by FHWA or FTA, copies must be provided to each agency. The statewide transportation improvement program (STIP), which includes projects that are consistent with the metropolitan TIPs, does require FHWA/FTA approval. Guidance on statewide planning, including STIPs, will be issued in the near future. FTA will make an eligibility finding for the program of projects identified in the first year (annual element). Additionally, in nonattainment areas for transportation related pollutants, FHWA and FTA as well as the MPO must make a conformity determination on it in accordance with the CAA requirements and the EPA/DOT Conformity Guidance.

Although MPOs in newly designated UZAs will be given three years to establish a planning process, they will need to immediately work with the State to put together a TIP that includes all projects to be funded under the Federal Transit Act or Title 23. The initial TIP could be based on projects included in the State 105 program, the section 18 program, and other available programming documents. UMTA's (FTA's) November 8, 1991 letter to the Governors in States with new UZAs (copy attached) addressed this issue. Until 10/1/92, the States and transit operators may proceed with implementation of projects included in the Section 105 program or a Section 18 program as long as such projects have the endorsement of the affected local officials. Any projects in newly designated UZAs that would have been funded with Section 18 resources had they remained a non-urbanized area will now utilize Section 9 resources.

The MPO and the State in cooperation with transit operations are strongly encouraged to initiate a cooperative review of all projects currently programmed or proposed to be programmed in order to take full advantage of the increased flexibility of FHWA and FTA capital funds. Major ISTEA programs that provide this flexibility include the: (1) Surface Transportation Program (STP) which may

be used for any type of highway or transit capital project involving either mode, (2) Section 9 transit capital funds which may be used for highway projects as long as certain specific conditions are met, (3) Interstate Substitution which allow up to 100% to be obligated for transit substitution projects, (4) Interstate Maintenance which allows States to transfer up to 20% percent to the STP and NHS under certain conditions, (5) Bridge which allows the State to transfer up to 40% to the STP, (6) NHS which allows the State to transfer up to 50% to the STP without Federal approval, and (7) in ozone and carbon monoxide nonattainment areas, Congestion Mitigation and Air Quality Improvement Program funds which can be used for transportation projects and programs that are likely to contribute to the attainment of national ambient air quality standards. In nonattainment areas for transportation related pollutants if the TIP is revised or replaced with a new TIP, new conformity determinations by the MPO and DOT will be necessary.

It is recognized that time constraints and the desire not to disrupt the project implementation process may limit the consideration given to the flexibility provisions in the near term. However, it is expected that the flexibility provisions will receive full consideration in the development of TIPs for MPO/State FYs beginning on or after 7/1/92.

Except as discussed below, a TIP covering a MPO/State fiscal year beginning on or after 7/1/92 should be developed for the metropolitan area in accordance with the requirements in this section, including priorities, financial constraint, inclusion of all projects to be funded under the Federal Transit Act or Title 23, opportunity for comment, and approval by the Governor or the Governor's designee. An exception to the requirement that the TIP be consistent with a long range plan developed in accordance with the requirements of this section will be allowed as long as the necessary plan update activities are in progress or scheduled in the UPWP. Additionally, an exception will be made to the requirement for total coverage of the metropolitan area for TIPs starting before 10/1/93 as long as the TIP covers the current MPO planning/study area and there are appropriate project selection procedures in place for the area outside the current MPO planning/study area. In all cases where the area has been designated as nonattainment for a transportation

related pollutant, the interim provisions must demonstrate how conformity will be ensured for the excluded portion of the nonattainment area, and such proposals should be coordinated with FHWA, FTA, EPA, State transportation agency, and the State air quality agencies before a decision is made.

Project Selection

Provision—In nonTMA, projects to be undertaken are selected by the State in cooperation with the MPO from the approved TIP. In TMAs, all projects, except projects on the NHS and projects funded under the Bridge and Interstate Maintenance programs, are selected by the MPO in consultation with the State from the approved TIP and in accordance with the priorities in the TIP. Projects on the NHS, and projects funded under the Bridge & Interstate Maintenance programs are selected by State in cooperation with MPO from the approved TIP. (23 U.S.C. 134(h)(3) & (i)(4)/FTA-Sec 8(h)(3) & (i)(4))

Guidance—Until July 1, 1992, States and transit operators may proceed with projects (except for projects in TMAs that are to be funded with suballocated STP funds) included in the annual element of the current TIP (endorsed by the MPO and found to conform with the SIP where applicable). For projects to be funded with suballocated STP funds, the State/transit operator must receive the concurrence of the MPO before proceeding.

The States, transit operators, and the MPO should initiate discussions on projects to be implemented between July 1, 1992, and October 1, 1992, to develop appropriate project selection procedures. As a minimum, the State/transit operator must receive formal concurrence from the MPO in all its projects selections in both TMAs and non-TMAs during this period.

With regard to the selection of Federal Lands Highway projects in TMAs, it should be noted that section 1032 states that notwithstanding any other provision of Title 23, no public lands highway project may proceed unless the state concurs in the selection of the project. This will need to be reflected in the MPO/State selection procedures for such projects.

Projects outside the area covered by a current TIP but within the designated metropolitan area or in a new UZA can proceed through 10/1/92 if included in an approved 105 program or a Section 18 program (a project located in a nonattainment area must also conform with the SIP). However, beginning 7/1/92, the appropriate selection procedures

as discussed above will need to be satisfied.

The required project selection procedures should be fully implemented by 10/1/92. However, once the TIP requirements are met (in particular, joint approval by the MPO and the Governor, and the TIP is financially reasonable and prioritized), it is recommended that the State, transit operators, and the MPO agree to utilize the TIP as the selection document rather than going through another process to select projects for implementation after the TIP has been approved, e.g., a jointly "agreed to list of projects" in the TIP such as all projects in the first year of the priority list can proceed to implementation without further selection action.

In the absence of such an "agreed to list of projects," or if the State/transit operator wishes to proceed with a project not on the "agreed to list of projects," the specific ISTEA project selection procedures identified for the category of funds/projects involved must be used. For example, if the proposed project is on the NHS or is to be funded with Bridge or I-3R funds in a designated TMA, the project must be selected by the State in cooperation with the MPO from the approved TIP; all other highway and transit projects in TMAs must be selected by the MPO in consultation with the State and transit operators from the approved TIP and the priorities therein; and all highway and transit projects in nonTMAs must be selected by the State and transit operators in cooperation with the MPO from the approved TIP.

The program of projects required under Section 9 of the FTA must be consistent with the MPO project selections made in the process just described.

Congestion Management System (CMS)

Provision—A CMS that provides for effective management of new existing transportation facilities through the use of travel demand reduction and operational management strategies is required in all TMAs. In TMAs that contain areas classified as nonattainment for ozone or carbon monoxide, highway projects which significantly increase capacity for single occupant vehicles (SOV) must be part of an approved CMS. The Secretary is required to provide an appropriate phase-in schedule for the CMS. (23 U.S.C. 134(i)(3) & (1)/FTA-Sec. 8(i)(3)) & (1))

Guidance—MPOs in TMAs should immediately initiate discussions with the State and the transit operator(s) on

procedures for the development of a comprehensive multimodal CMS for the metropolitan area. For phase 1 of the phase-in schedule, a currently self-certified planning process in conjunction with the NEPA process can constitute an interim congestion management system provided that: (1) The plan development process includes an analysis of transportation system management strategies to make more efficient use of the existing transportation system, and (2) this analysis, as supplemented on a project-by-project basis through the NEPA process, results in the analysis of all reasonable travel demand reduction and operational management strategies in the corridor in which the project is located. Further, the results of the analysis must be fully considered in the decision making process and: (1) The project must include reasonable provisions to manage the proposed improvement to make the most efficient use of it, and (2) the State and MPO must commit to the implementation of other management strategies that are determined to be appropriate for the corridor in which the project is located. As a minimum, a carpool/vanpool program should be implemented if one has not already been implemented. In addition, the project must be included in a conforming transportation plan and TIP.

In TMA's that are nonattainment areas, the MPO and State may not advance a project that provides a significant capacity increase for SOVs unless they can demonstrate that they have a mechanism in place that meets these criteria and the project results from this process. Projects that are part of/consistent with a State mandated congestion management system/plan or are required to be implemented under an adequate public facilities ordinance may also proceed in phase 1. Projects that have advanced beyond the NEPA process and which are being implemented, e.g., right-of-way acquisition is in process, will be deemed to be programmed and not subject to this requirement.

Guidance on subsequent phases of the CMS will be provided after the regulations required under 23 USC 303(a) have been issued.

Certification of the Metropolitan Planning Process

Provision—In TMA's, the Secretary must certify the planning process for the metropolitan area at least every 3 years. (23 U.S.C. 134(i)(5)/FTA-Sec. 8(i)(5))

If not certified after 9/30/93, the Secretary may withhold all or part of the attributable portion of STP apportionments and formula apportionments of FTA Section 9 funds. (23 U.S.C. 134(i)(5)/FTA-Sec. 8(i)(5))

If an area is not certified for 2 consecutive years after 9/30/94, 20 percent of attributable STP and Section 9 funds must be withheld—funds are restored when the area is certified. (23 U.S.C. 134(i)(5)/FTA-Sec. 8(i)(5))

Guidance—Guidance on the Federal certification procedures will be provided at a later date. In the interim, the States and all MPOs should continue to self certify the planning process as required by the existing regulations.

Metropolitan Planning Funds (PL)-FHWA

Provision—One percent of the funds authorized for programs under sections 104 and 144, except for the Interstate Construction and Interstate Substitution programs, is set aside for metropolitan planning. (23 U.S.C. 104(f)(1))

In addition to population, status of planning, and metropolitan transportation needs, a State must now consider "attainment of air quality standards and other factors necessary to provide an appropriate distribution of funds to carry out the requirements of 134 and other applicable requirements of Federal law" in developing a formula. (23 U.S.C. 104(f)(4))

Guidance—As an interim measure, a State will be allowed to allocate all of the FY 1992 funds under its existing formula, but will be required to consider/develop a new formula prior to allocation of FY 1993 funds. The State must make all of the PL funds available to the MPOs (a portion of the PL funds cannot be retained by the State for administration). FHWA approval of any new formula will be required.

Provision—Metropolitan planning is also an eligible activity under the NHS and STP programs. (23 U.S.C. 103(d) & 133(b))

Guidance—Since capital funds are involved, the proposed use of NHS or STP funds for planning must be included in the TIP. In addition, the planning work to be funded should be included in the approved UPWP and the State's "HPR" Work Program similar to the way optional planning funds (PR, Interstate Substitution, and Minimum Allocation) have been handled.

Metropolitan Planning Funds—FTA

Provision—Three percent of the overall funds available for transit are

set-aside for Planning, Programming, and Research. Of this amount 45% is to be made available to MPOs for metropolitan planning activities under section 8 of the FTA and 20% is to be made available to carry out State planning and research activities. (FTA-Sec. 21(c))

Funds directed to MPOs shall be distributed according to a formula, developed by the State in cooperation with the MPOs within the State, that considers population in UZAs and provides an appropriate distribution of funds to carry out section 8 planning activities. This formula must ensure, to the maximum extent practicable, that no MPO is allocated less than the amount it received under section 8 in FY 1991. (FTA-Sec. 8(p))

Metropolitan planning is also an eligible activity under section 9 of the FTA. (FTA-Sec. 9(j))

Guidance—As an interim measure, States are encouraged to allocate an amount to each UZA, or part thereof, within the State equal to the amount each UZA, or part thereof, received from the section 8 National Program Plan in FY 1991. Any remaining amount of the State's apportionment could then be distributed on the basis of the new formula developed by the State in cooperation with MPOs.

It is anticipated that Secretarial approval of these formulas will be delegated to the FTA Administrator. As long as the hold harmless provisions are met, FTA will approve the formulas agreed upon by the State and the MPOs within the State. FTA should receive notification of the formula and the resulting funding levels that will be provided to each recipient throughout the State. A simple certification statement from the State that the formula was developed in cooperation with the affected MPOs representing UZAs, or parts thereof, within the State will suffice for FTA approval.

Phase-in Schedule for New Requirements

Provision—The Joint Explanatory Statement of the Committee of the Conference on Metropolitan Planning states that the Secretary is to prescribe an appropriate phase-in schedule for any new requirements.

Guidance—Guidance on the phase-in schedule for the various requirements is provided under the individual requirement headings. Additional guidance on the phase-in schedule, particularly for the CMS requirement in TMA's will be provided separately.

1991 TMA's (ABOVE 200K)

State name	1990 urbanized area	S1-14-1984, 1980 total population	CB91-259, 1990 total population
Alabama	Birmingham, AL	606,085	622,074
	Mobile, AL	295,493	300,912
	Montgomery, AL	196,947	210,007
State Total		1,098,525	1,132,993
Alaska	Anchorage, AK	170,247	221,883
State Total		170,247	221,883
Arizona	Phoenix, AZ	1,409,279	2,006,239
	Tucson, AZ	450,059	579,235
State Total		1,859,338	2,585,474
Arkansas	Little Rock-North Little Rock, AR	295,133	305,353
State Total		295,133	305,353
California	Los Angeles, CA	9,479,436	11,402,946
	San Francisco-Oakland, CA	3,190,698	3,629,516
	San Diego, CA	1,704,352	2,348,417
	San Jose, CA	1,243,952	1,435,019
	Riverside-San Bernardino, CA	705,175	1,170,196
	Sacramento, CA	796,266	1,097,005
	Oxnard-Ventura, CA	377,695	480,482
	Fresno, CA	331,551	453,388
	Bakersfield, CA	222,236	302,605
	Stockton, CA	197,052	262,046
	Modesto, CA	159,538	230,609
State Total		18,407,951	22,812,229
Colorado	Denver, CO	1,352,070	1,517,977
	Colorado Springs, CO	276,872	352,989
State Total		1,628,942	1,870,966
Connecticut	Hartford-Middletown, CT	510,034	546,198
	New Haven-Meriden, CT	368,061	451,486
	Bridgeport-Milford, CT	410,998	413,863
	(Meriden combined with N.Haven, CT)	57,118	0
State Total		1,346,211	1,411,547
Delaware	Wilmington, DE-NJ-MD-PA	406,112	449,616
State Total		406,112	449,616
Dist. of Col	Washington, DC-MD-VA	2,763,105	3,363,031
State Total		2,763,105	3,363,031
Florida	Miami-Hialeah, FL	1,608,159	1,914,660
	Tampa-St. Petersburg-Clearwater FL	520,912	1,708,710
	Fort Lauderdale-Hollywood-Pom.B., FL	1,008,526	1,238,134
	Orlando, FL	577,235	887,126
	West Palm Bch.-Boca Raton-Delray Bch., FL	487,044	794,848
	Jacksonville, FL	598,015	738,413
	Sarasota-Bradenton, FL	305,431	444,385
	Melbourne-Palm Bay, FL	212,924	305,978
	Pensacola, FL	215,995	253,558
	Daytona Beach, FL	170,749	221,341
	Fort Myers-Cape Coral, FL	140,958	220,552
	(St. Peter combined with Tampa, FL)	833,337	0
State Total		6,679,285	8,727,705
Georgia	Atlanta, GA	1,613,357	2,157,806
	Augusta, GA-SC	251,250	286,538
	Columbus, GA-AL	214,591	220,698
State Total		2,079,198	2,665,042
Hawaii	Honolulu, HI	582,463	632,603
State Total		582,463	632,603
Idaho			
State Total			
Illinois	Chicago, IL-Northwestern IN	6,779,799	6,792,087
	Peoria, IL	261,418	242,353
	Rockford, IL	204,304	207,826

1991 TMA's (ABOVE 200K)—Continued

State name	1990 urbanized area	S1-14-1984, 1980 total population	CB91-259, 1990 total population
State Total		7,245,521	7,242,266
Indiana	Indianapolis, IN	836,472	914,781
	Fort Wayne, IN	236,479	248,424
	South Bend-Mishawaka, IN-MI	228,331	237,932
State Total		1,299,282	1,401,117
Iowa	Des Moines, IA	267,189	293,666
	Davenport-Rock Island-Moline, IA-IL	285,024	264,018
State Total		552,213	557,684
Kansas	Wichita, KS	305,752	338,789
State Total		305,752	338,789
Kentucky	Louisville, KY-IN	761,002	754,956
	Lexington-Fayette, KY	194,093	220,701
State Total		955,095	975,657
Louisiana	New Orleans, LA	1,078,299	1,040,226
	Baton Rouge, LA	350,657	365,943
	Shreveport, LA	263,827	256,489
State Total		1,692,783	1,662,658
Maine			
State Total			
Maryland	Baltimore, MD	1,755,477	1,889,873
State Total		1,755,477	1,889,873
Massachusetts	Boston, MA	2,701,740	2,775,370
	Springfield, MA-CT	506,822	532,747
	Worcester, MA-CT	276,022	315,666
	Lawrence-Haverhill, MA-NH	211,428	237,362
State Total		3,695,012	3,861,145
Michigan	Detroit, MI	3,809,327	3,697,529
	Grand Rapids, MI	374,744	436,336
	Flint, MI	331,931	328,023
	Lansing-East Lansing, MI	254,704	265,095
	Ann Arbor, MI	208,782	222,081
State Total		4,979,488	4,947,044
Minnesota	Minneapolis-St. Paul, MN	1,787,564	2,079,676
State Total		1,787,564	2,079,676
Mississippi	Jackson, MS	265,051	289,285
State Total		265,051	289,285
Missouri	St. Louis, MO-IL	1,848,590	1,946,526
	Kansas City, MO-KS	1,097,793	1,275,317
State Total		2,946,383	3,221,843
Montana			
State Total			
Nebraska	Omaha, NE-IA	512,438	544,292
State Total		512,438	544,292
Nevada	Las Vegas, NV	432,874	697,348
	Reno, NV	162,286	213,747
State Total		595,160	911,095
New Hampshire			
State Total			
New Jersey	Trenton, NJ-PA	273,129	298,602
State Total		273,129	298,602
New Mexico	Albuquerque, NM	418,206	497,120
State Total		418,206	497,120

1991 TMA's (ABOVE 200K)—Continued

State name	1990 urbanized area	S1-14-1984, 1980 total population	CB91-259, 1990 total population
New York	New York, NY-Northeastern NJ	15,584,616	16,044,012
	Buffalo-Niagara Falls, NY	1,002,068	954,332
	Rochester, NY	606,070	619,653
	Albany-Schenectady-Troy, NY	490,015	509,106
	Syracuse, NY	379,284	388,918
State Total		18,062,053	18,516,021
North Carolina	Charlotte, NC	350,715	455,597
	Raleigh, NC	206,597	305,925
	Fayetteville, NC	215,839	241,763
	Durham, NC	157,287	205,355
State Total		930,438	1,208,640
North Dakota			
State Total			
Ohio	Cleveland, OH	1,752,424	1,677,492
	Cincinnati, OH-KY	1,123,412	1,212,675
	Columbus, OH	833,648	945,237
	Dayton, OH	595,059	613,467
	Akron, OH	515,720	527,863
	Toledo, OH-MI	485,440	489,155
	Youngstown-Warren, OH	383,398	361,627
	Canton, OH	244,888	244,576
	Lorain-Elyria, OH	225,331	224,087
State Total		6,159,320	6,296,179
Oklahoma	Oklahoma City, OK	674,322	784,425
	Tulsa, OK	443,350	474,668
State Total		1,117,672	1,259,093
Oregon	Portland-Vancouver, OR-WA	1,026,144	1,172,158
State Total		1,026,144	1,172,158
Pennsylvania	Philadelphia, PA-NJ	4,100,555	4,222,211
	Pittsburgh, PA	1,810,038	1,678,745
	Allentown-Bethlehem-Easton, PA-NJ	381,734	410,436
	Scranton-Wilkes-Barre, PA	406,517	388,225
	Harrisburg, PA	278,296	292,904
State Total		6,977,140	6,992,521
Rhode Island	Providence-Pawtucket, RI-MA	796,250	846,293
State Total		796,250	846,293
South Carolina	Charleston, SC	328,572	393,956
	Columbia, SC	311,561	328,349
	Greenville, SC	229,303	248,173
State Total		869,436	970,478
South Dakota			
State Total			
Tennessee	Memphis, TN-AR-MS	774,551	825,193
	Nashville, TN	518,325	573,294
	Knoxville, TN	284,708	304,466
	Chattanooga, TN-GA	301,515	296,955
State Total		1,879,099	1,999,908
Texas	Dallas-Fort Worth, TX	2,451,390	3,198,259
	Houston, TX	2,412,664	2,901,851
	San Antonio, TX	944,893	1,129,154
	El Paso, TX-NM	454,159	571,017
	Austin, TX	379,560	562,008
	Corpus Christi, TX	245,854	270,006
	McAllen-Edinburg-Mission, TX	157,423	263,192
State Total		7,045,943	8,895,487
Utah	Salt Lake City, UT	674,201	788,447
	Ogden, UT	205,744	259,147
	Provo-Orem, UT	169,699	220,556
State Total		1,049,644	1,269,150

1991 TMA's (ABOVE 200K)—Continued

State name	1990 urbanized area	S1-14-1984, 1980 total population	CB91-259, 1990 total population
Vermont			
State Total			
Virginia	Norfolk-Virginia Bch.-Newport N., VA	770,784	1,323,098
	Richmond, VA	491,627	589,980
	(Newport N. combined with Norfolk, VA)	328,576	0
State Total		1,590,987	1,913,078
Washington	Seattle, WA	1,391,535	1,744,086
	Tacoma, WA	402,077	497,210
	Spokane, WA	266,709	279,038
State Total		2,060,321	2,520,334
West Virginia			
State Total			
Wisconsin	Milwaukee, WI	1,207,008	1,226,293
	Madison, WI	213,675	244,336
State Total		1,420,683	1,470,629
Wyoming			
State Total			
Puerto Rico	San Juan, PR	1,081,193	1,221,086
State Total		1,081,193	1,221,086
	U.S. Totals (over 200K)	117,580,194	132,226,557
	U.S. & P.R. Totals (125 UZA)	118,661,387	133,447,643
	U.S. Totals (396 UZA)	139,167,177	158,258,878
	U.S. & P.R. Totals (405 UZA)	140,991,560	160,384,133

Sample of Letter Sent to All Governors

November 6, 1991.

The Honorable Pete Wilson,
Governor of California, The Capitol,
Sacramento, California 95814.

Dear Governor Wilson: I am writing to discuss some of the changes resulting from the 1990 U.S. Census and their effect on the Urban Mass Transportation Administration (UMTA) formula and planning programs in California.

As you know, seven new urbanized areas have been designated within the State of California. These urbanized areas are now eligible to receive UMTA section 9 transit assistance funds. Some of these areas received State-administered UMTA section 18 funds for public transportation in nonurbanized areas (under 50,000 population). I would like to ensure that there is a smooth transition for these areas from section 18 to section 9 funding.

By statute, section 9 funds are made available to the Governor for expenditure in urbanized areas with less than 200,000 population. As Governor, you are the designated recipient for section 9 funds on behalf of these areas unless you designate another recipient (or recipients) at the State or local level. If you do not plan to be the designated recipient of section 9 funds on behalf of these newly-defined urbanized areas, please document your choice of designated recipient(s) in a letter to UMTA. For each new designated recipient, an opinion of counsel certifying to the entity's legal capacity to perform this function is also required.

I should note that UMTA has been encouraging States to be the section 9 recipient/grantee on behalf of small urbanized areas for several years. In light of the added number of small urbanized areas, I would like to ask you to again consider expanding the State's role as recipient of these funds.

Section 9 grants cannot be approved for a new urbanized area unless the proposed program of projects is the result of a local planning process. The projects must be contained in the area's Transportation Improvement Program (TIP) which has been endorsed by a metropolitan planning organization (MPO). Thus, if a new urbanized area wants to receive section 9 funding, and there is not an MPO which can serve it, one must be established. Under current statute and regulations, designation of an MPO must be made " * * * by agreement among the units of general purpose local government and the Governor."

The new urbanized areas are also eligible to receive section 8 planning grants, either directly to an established MPO, or through the State transportation agency. State agencies may assist in developing the local plan. This may be particularly appropriate in this transition year when the planning process may need to be expedited to permit funding continuity.

We at UMTA look forward to working with you to implement the changes resulting from the new census. Should you have any questions about the transition of the newly urbanized areas, or the establishment of new MPO's, please feel free to contact the

Regional Administrator, Mr. Stewart F. Taylor, and his staff in our San Francisco office.

Sincerely,
Brian W. Clymer

NEWLY-DEFINED 1990 URBANIZED AREAS

Alphabetically	
Brunswick, GA	50,066
Crystal Lake, IL	72,498
Deltona, FL	58,053
Denton, TX	66,445
Dover, DE	50,787
Frederick, MD	58,393
Fredericksburg, VA	56,718
Greenville, NC	55,884
Hesperia—Apple Valley—Victorville, CA	153,176
Holland, MI	62,418
Hyannis, MA	66,713
Idaho Falls, ID	56,356
Indio—Coachella, CA	56,038
Ithaca, NY	50,132
Kissimmee, FL	55,419
Lewisville, TX	79,433
Lodi, CA	55,590
Logan, UT	50,401
Lompoc, CA	56,591
Longmont, CO	52,464
Myrtle Beach, SC	58,384
Pottstown, PA	53,371
Punta Gorda, FL	67,033
Rocky Mount, NC	50,870
San Luis Obispo, CA	50,305
Slidell, LA	54,084
Spring Hill, FL	52,056
Stuart, FL	80,069
Sumter, SC	57,632
Titusville, FL	51,549
Vacaville, CA	71,535

NEWLY-DEFINED 1990 URBANIZED
AREAS—Continued

Vero Beach, FL.....	64,707
Watsonville, CA.....	51,378
Cayey, PR.....	53,945
Humacao, PR.....	57,144

By state

● California	
Hesperia—Apple Valley—Victorville, CA.....	153,178
Indio—Coachella, CA.....	56,038
Lodi, CA.....	55,590
Lompoc, CA.....	58,591
San Luis Obispo, CA.....	50,305
Vacaville, CA.....	71,535
Watsonville, CA.....	51,378
● Colorado	
Longmont, CO.....	52,464
● Delaware	
Dover, DE.....	50,787
● Florida	
Deltona, FL.....	58,053
Kissimmee, FL.....	55,419

NEWLY-DEFINED 1990 URBANIZED
AREAS—Continued

Punta Gorda, FL.....	67,033
Spring Hill, FL.....	52,056
Stuart, FL.....	80,069
Titusville, FL.....	51,549
Vero Beach, FL.....	64,707
● Georgia	
Brunswick, GA.....	50,066
● Idaho	
Idaho Falls, ID.....	56,356
● Illinois	
Crystal Lake, IL.....	72,498
● Louisiana	
Slidell, LA.....	54,084
● Maryland	
Frederick, MD.....	58,393
● Massachusetts	
Hyannis, MA.....	66,713
● Michigan	
Holland, MI.....	62,418
● North Carolina	
Greenville, NC.....	55,884
Rocky Mount, NC.....	50,870

NEWLY-DEFINED 1990 URBANIZED
AREAS—Continued

● New York	
Ithaca, NY.....	50,132
● Pennsylvania	
Pottstown, Pa.....	53,371
● South Carolina	
Myrtle Beach, SC.....	58,384
Sumter, SC.....	57,632
● Texas	
Denton, TX.....	66,445
Lewisville, TX.....	79,433
● Utah	
Logan, UT.....	50,401
● Virginia	
Fredericksburg, VA.....	56,718
● Puerto Rico	
Cayey, PR.....	53,945
Humacao, PR.....	57,144

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federal register

**Thursday
April 23, 1992**

Part III

Department of Education

**Special Projects and Demonstrations for
Providing Vocational Rehabilitation
Services to Individuals With Severe
Handicaps; Notice of Proposed Priority**

DEPARTMENT OF EDUCATION

Special Projects and Demonstrations for Providing Vocational Rehabilitation Services to Individuals With Severe Handicaps

AGENCY: Department of Education.

ACTION: Notice of proposed priority.

SUMMARY: The Secretary proposes a priority under the program of Special Projects and Demonstrations for Providing Vocational Rehabilitation Services to Individuals with Severe Handicaps. The priority is for a hearing research center that will conduct basic and applied research activities to assist in the rehabilitation of individuals with significant hearing loss.

DATES: Comments must be received on or before May 26, 1992.

ADDRESSES: All comments concerning this proposed priority should be addressed to Wallace K. Babington, U.S. Department of Education, 400 Maryland Avenue, SW., room 3218, Switzer Building, Washington, DC 20202-2736.

FOR FURTHER INFORMATION CONTACT: George N. Kosovich, U.S. Department of Education, 400 Maryland Avenue, SW., room 3221, Switzer Building, Washington, DC 20202-2736. Telephone: (202) 732-1398. Deaf and hearing impaired individuals may call (202) 732-5019 for TDD services.

SUPPLEMENTARY INFORMATION: Grants under the program of Special Projects and Demonstrations for Providing Vocational Rehabilitation Services to Individuals with Severe Handicaps are authorized by title III, section 311(a)(1) of the Rehabilitation Act of 1973, as amended. The purpose of this program is to authorize grants for special projects and demonstrations that hold promise of expanding or otherwise improving rehabilitation services to individuals with the most severe handicaps. The Department's 1992 appropriation for this program includes funds for the support of a hearing research center.

This program, as well as the proposed priority, supports AMERICA 2000, the President's strategy for moving the Nation toward achievement of the National Education Goals, by supporting research activities related to the education and rehabilitation of persons severely handicapped by hearing loss. National Education Goal three calls for American students to learn to use their minds well, so they may be prepared for responsible citizenship, further learning, and productive employment, and National Education Goal five calls for adults to possess the knowledge and skills necessary to compete in a global

economy and exercise the rights and responsibilities of citizenship.

The Secretary will announce the final priority in a notice in the Federal Register. The final priority will be determined by responses to this notice, available funds, and other considerations of the Department. Funding of a particular project depends on the availability of funds, the nature of the final priority, and the quality of the applications received. The publication of this proposed priority does not preclude the Secretary from proposing additional priorities, nor does it limit the Secretary to funding only this priority, subject to meeting applicable rulemaking requirements.

Note: This notice of proposed priority does not solicit applications.

Priority

Under 34 CFR 75.105(c)(3) the Secretary proposes to give an absolute preference to applications that meet the following priority. The Secretary proposes to fund under this competition only an application that meets this absolute priority:

*Proposed Priority—Hearing Research Center***Background**

More than 28 million Americans are believed to have some degree of hearing impairment. Within that population, it is further estimated that about two million people have no usable hearing and are considered to be profoundly deaf (A Report of the Task Force on the National Strategic Research Plan—National Institute on Deafness and Other Communication Disorders, 1989). It is further estimated that approximately 25 percent of the two million deaf people in this country were born deaf or lost their hearing prior to age 18. The remaining 26 million people with impaired hearing are considered to be hard of hearing with variations from mild to severe in the degree of hearing loss. The large majority of people who are deaf or hard of hearing lost their hearing as adults and experience sensori-neural hearing impairment.

Sensori-neural hearing loss is an irreversible condition that affects over 90 percent of the hearing impaired population. Treatment approaches attain limited success for most persons with significant hearing loss. Amplification alone cannot restore normal auditory functioning in many listening situations since sensori-neural loss greatly affects the ability to discriminate speech and certain sounds. Other approaches exist to alleviate the functional limitations that attend this

type of hearing loss, but considerable gaps remain in meeting the overall functional needs for many within this population.

There are approximately 97,000 new cases of Meniere's Disease each year, presenting episodes of vertigo, tinnitus, and fluctuating hearing loss (The Ear Foundation, 1991). Ongoing attacks of this disease result in increased hearing loss along with the debilitating effect of being immobilized for days at a time due to decreased ability, dizziness, or tinnitus.

Tinnitus is described as an incessant ringing in the ears or other head noise that is heard when there is no external cause for that noise. According to a 1983 National Institutes of Health study, as many as 5.4 million persons in the Nation suffer so intensely from tinnitus that treatment is necessary.

Sensori-neural hearing loss, Meniere's Disease, and tinnitus are conditions that affect the functional capabilities of millions of Americans. Further research is needed to develop more and better strategies to effectively deal with these conditions.

Accordingly to rehabilitation specialists and hearing health care professionals, the degree of audiological hearing loss is not the only or primary determining factor in how well a person is going to function at school, work, home, and in the community. ("Adjustment to Post-Lingual Hearing Loss," Howard E. Stone, in "Adjustment to Acquired Hearing Loss," Edited by J.G. Kyle, 1987). Like many disabling conditions, there are numerous factors that in combination determine the kind of impact of hearing loss will have on an individual. It is important that persons providing services to this diverse population be aware of the functional ramifications of hearing loss, whether the loss is partial or total, or is characterized by early or late onset. Other considerations that should be taken into account include the following: (1) Personal capabilities and resources of the individual with the hearing loss; (2) family and community response to the disability and the resources they provide to deal with it; and (3) availability of resources to members of linguistic, racial, or ethnic minorities and those from non-English-speaking backgrounds.

Children with all levels of hearing loss often experience serious difficulty in development of English skills. Consequently, a high percentage of these individuals exit high school with English skills significantly below grade level ("Definitions and Descriptions" in "Our Forgotten Children: Hard of

Hearing Pupils in the Schools," Ross, 1990). At the same time, many individuals who have been deaf or hard of hearing from birth or since early childhood have attained a high level of skill in English. We know that it is possible for individuals with early onset of hearing loss or deafness to develop English language competence equal to that of their hearing peers. However, we still do not know why certain individuals develop this skill with a high level of mastery while others develop only rudimentary skills.

It is crucial to develop proven educational methodologies that provide deaf and hard of hearing students with the language and communication skills necessary for successful vocational and personal growth.

Just as hearing loss can have a significant impact on the overall functioning of persons without other disabling conditions, it can amplify the restrictions resulting from other disabilities that a person may have. Medical technology continues to improve, resulting in higher survival rates of infants and longer lifespans. Consequently, more people particularly the elderly populations, are faced with multiple disabling health problems, including hearing loss.

Children and adults with developmental disabilities, traumatic brain injury, or visual impairments can have consequent functional limitations that are dramatically magnified when combined with a hearing loss. Lack of comprehensive, quality services has often resulted in educational, vocational, and social disabilities of catastrophic proportions for people who are severely hearing impaired and mentally retarded (Report by the Steering Committee on "The Rehabilitation and Management of the Hearing Impaired Mentally Retarded," Luff, 1975).

Persons who have learned to use vision to compensate for auditory deficits experience significant disruption in their ability to function when they begin to lose their sight. A 1987 study by the Veteran's Administration (VA) indicated that in one of their hospitals, 103 of 113 legally blind veterans also experienced hearing loss. Another VA hospital found significant hearing impairment in half of the veterans tested there for visual impairment (VA Rehabilitation Research and Development Program Report, Decker, 1987). Older Americans with hearing loss cannot always benefit from available technology if the technology lacks design features to accommodate limited manual dexterity, low vision, or

minimal experience with technological devices.

Proposed Priority

The purpose of this priority is to support a hearing research center that will conduct applied and basic hearing research activities to further the rehabilitation of individuals with significant hearing loss. For the purpose of this priority, definitions of the following terms are proposed: Basic research is research in which the investigator is concerned primarily with gaining new knowledge or understanding of a subject without reference to any immediate application or utility. Applied research is research in which the investigator is primarily interested in developing new knowledge, information, or understanding that can be applied to a predetermined rehabilitation problem or need. Applied research builds on selected findings from basic research. (34 CFR 350.4). Significant hearing loss means a hearing loss of such magnitude that it is likely to result in a loss of functional capacity in educational, vocational, or social settings, or in the performance of activities of daily living.

Areas of research must include, but are not limited to—(1) basic and applied research activities that explore diagnosing, understanding, and treating hearing disorders, including the development of applicable technology and assessment of interventions that increase communicative, vocational, social, and family functioning of individuals with significant hearing loss; (2) comprehensive investigations of adventitious hearing loss and such associated impairments as tinnitus; and (3) collection and analysis of demographic data on hearing impairments that would assist in the research, treatment, and rehabilitation of individuals with significant hearing loss.

In addition to the required areas of research, projects may propose research in other areas that further the rehabilitation of individuals with significant hearing loss, such as—(1) language acquisition and development with emphasis on the efficacy of selected sign systems in educational and vocational settings; and (2) functional capacities and rehabilitation needs of persons with significant hearing loss who have one or more other disabilities.

Evaluation of Application and Selected Criteria

For this competition only, the Secretary proposes to use the following selection criteria to evaluate

applications. The maximum total score for an application is 100 points.

(a) *Potential Impact of Outcomes: Importance of Programs* (15 points). The Secretary reviews each application to determine to what degree—

- (1) The proposed activity relates to the announced priority;
- (2) The research is likely to produce new and useful information;
- (3) The need and target population are adequately defined; and
- (4) The outcomes are likely to benefit the defined target population.

(b) *Potential Impact of Outcomes: Dissemination and Utilization* (15 points). The Secretary reviews each application to determine to what degree—

- (1) The research results are likely to become available to others working in the field; and
- (2) The means to disseminate and promote utilization by others are defined.

(c) *Probability of Achieving Proposed Outcomes: Program and Project Design* (20 points). The Secretary reviews each application to determine to what degree—

- (1) The objectives of the project are clearly stated;
- (2) The hypothesis is sound and based on evidence;
- (3) The project design and methodology are likely to achieve the objectives;
- (4) The measurement methodology and analysis are sound;
- (5) The conceptual model, if used, is sound;
- (6) The sampling, if proposed, meets statistical standards; and
- (7) The human subjects are sufficiently protected.

(d) *Probability of Achieving Proposed Outcomes: Key Personnel* (20 points). The Secretary reviews each application to determine to what degree—

- (1) The principal investigator and other key staff have adequate training or experience and demonstrate appropriate potential to conduct the proposed research activity;
- (2) The principal investigator and other key staff are familiar with pertinent literature or methods;
- (3) All required disciplines are effectively covered;
- (4) Commitments of staff time are adequate for the project; and
- (5) The applicant is likely, as part of its nondiscriminatory employment practices, to encourage applications for employment from persons who are members of groups that traditionally have been underrepresented, such as—

- (i) Members of racial or ethnic minority groups;
- (ii) Women;
- (iii) Persons with handicaps; and
- (iv) Elderly persons.

(e) *Probability of Achieving Proposed Outcomes: Evaluation Plan* (10 points). The Secretary reviews each application to determine to what degree—

- (1) There is a mechanism to evaluate plans, progress, and results;
- (2) The evaluation methods and objectives are likely to produce data that are statistically valid and quantifiable; and
- (3) The evaluation results are likely to have clear implications for further research or methods of service.

(f) *Program and Project Management: Plan of Operation* (10 points). The Secretary reviews each application to determine to what degree—

- (1) There is an effective plan of operation that ensures proper and efficient administration of the project;
- (2) The applicant's planned use of its resources and personnel is likely to achieve each objective;
- (3) Collaboration between institutions, if proposed, is likely to be effective; and
- (4) There is a clear description of how the applicant will include eligible project participants who have been traditionally underrepresented, such as—

- (i) Members of racial or ethnic minority groups;
- (ii) Women;
- (iii) Persons with handicaps; and
- (iv) Elderly persons.

(g) *Program and Project Management: Adequacy of Resources* (5 points). The Secretary reviews each application to determine to what degree—

- (1) The facilities planned for use are adequate;
- (2) The equipment and supplies planned for use are adequate; and
- (3) The commitment of the applicant to provide administrative support and adequate facilities is evident.

(h) *Program and Project Management: Budget and Cost Effectiveness* (5 points). The Secretary reviews each application to determine to what degree—

- (1) The budget for the project is adequate to support the activities;
- (2) The costs are reasonable in relation to the objectives of the project; and
- (3) The budget for subcontracts, if required, is detailed and appropriate.

Paperwork Reduction Act of 1980

This proposed priority contains information collection requirements. As required by the Paperwork Reduction Act of 1980, the Department of Education will submit a copy of the proposed priority to the Office of Management and Budget (OMB) for its review. (44 U.S.C. 3504(h)).

This proposed priority would affect the following types of entities eligible to apply for a grant under this program: institutions of higher education; other nonprofit agencies, organizations, and institutions; and any combinations of these types of entities. The Department needs and uses the information to enable the Secretary to determine which applicant would most likely develop a successful Hearing Research Center that is able to sufficiently address the areas of concern specified in this priority.

Annual public reporting and recordkeeping burden for this collection of information is estimated to average 6.25 hours per response for 20 respondents, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

Organizations and individuals desiring to submit comments on the information collection requirements should direct them to the Office of Information and Regulatory Affairs, OMB, room 3002, New Executive Office

Building, Washington, DC 20503; Attention: Daniel J. Chenok.

Intergovernmental Review

This program is subject to the requirements of Executive Order 12372 and the regulations in 34 CFR part 79. The objective of the Executive order is to foster an intergovernmental partnership and a strengthened federalism by relying on processes developed by State and local governments for coordination and review of proposed Federal financial assistance.

In accordance with the order, this document is intended to provide early notification of the Department's specific plans and actions for this program.

Invitation To Comment

Interested persons are invited to submit comments and recommendations regarding this proposed priority.

All comments submitted in response to this notice will be available for public inspection, during and after the comment period, in room 3221, Switzer Building, 330 C Street, SW., Washington, D.C., between the hours of 8:30 a.m. and 4 p.m., Monday through Friday of each week except Federal holidays.

Applicable Program Regulations

34 CFR parts 369 and 373, except sections 369.30 through 369.32 and section 373.30.

Program Authority: 29 U.S.C. 777a.

Catalog of Federal Domestic Assistance Number 84.235, Special Projects and Demonstrations for Providing Vocational Rehabilitation Services to Individuals with Severe Handicaps.

Dated: April 17, 1992.

Lamar Alexander,

Secretary of Education.

[FR Doc. 92-9429 Filed 4-22-92; 8:45 am]

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federal register

**Thursday
April 23, 1992**

Part IV

Department of Education

**34 CFR Part 722
Educational Partnerships Program; Final
Regulations**

DEPARTMENT OF EDUCATION

34 CFR Part 722

RIN 1850-AA40

Educational Partnerships Program

AGENCY: Department of Education.

ACTION: Final regulations.

SUMMARY: The Secretary issues final regulations to implement the Educational Partnerships Program. These regulations are needed to implement the discretionary grant program authorized by the Educational Partnerships Act of 1988, title VI, subtitle A, chapter 5 of the Omnibus Trade and Competitiveness Act of 1988 (Act).

EFFECTIVE DATE: These regulations take effect either 45 days after publication in the *Federal Register* or later if the Congress takes certain adjournments. If you want to know the effective date of these regulations, call or write the Department of Education contact person. A document announcing the effective date will be published in the *Federal Register*.

FOR FURTHER INFORMATION CONTACT: Susan Gruskin, Office of Educational Research and Improvement, U.S. Department of Education, 555 New Jersey Avenue NW., room 502, Washington, DC 20208-5644. Telephone: (202) 219-2116. Deaf and hearing-impaired individuals may call the Federal Dual Party Relay Service at 1-800-877-8339 (in the Washington, DC 202 area code, telephone 708-9300) between 8 a.m. and 7 p.m., Eastern time.

SUPPLEMENTARY INFORMATION: The Educational Partnerships Program encourages the creation of alliances between local educational agencies or institutions of higher education, or both, and representatives of the private sector. An eligible partnership must include a local educational agency or an institution of higher education, or both, and must also include one or more of the following: A business concern, community-based organization, nonprofit private organization, museum, library, educational television or radio station, or an appropriate State agency.

A variety of school improvement activities, programs for gifted and talented and disadvantaged students, tutoring, career awareness, and academic internship programs are authorized. These authorized activities and the priorities contained in the regulations support AMERICA 2000, the President's strategy for moving the Nation toward the National Education Goals. By promoting partnerships to

undertake education reform in our communities, this program supports AMERICA 2000's call for creating communities where learning can happen. The priorities also encourage partnerships to design projects that address—

- Goal 1 (Readiness for School);
- Goal 2 (High School Completion);
- Goal 3 (Student Achievement and Citizenship); and
- Goal 6 (Same, Disciplined, and Drug-Free Schools).

Students and teachers in public elementary and secondary schools and in public and private institutions of higher education may benefit from these activities. By statute, private elementary and secondary schools are not eligible to participate.

On November 22, 1991 the Secretary published a notice of proposed rulemaking (NPRM) for this program in the *Federal Register* (56 FR 59158). A discussion of the major issues can be found in the NPRM at 56 FR 59158.

Three changes have been made since the publication of the NPRM. The order of the selection criteria in § 722.21 has been changed so that Need for the project is now the first criterion. The element of the criterion concerning the objectives that each member of the partnership hopes to accomplish through the proposed project has been expanded to include consideration of how those objectives relate to benefits for students, teachers, and other educational personnel. The element of the criterion Composition of the eligible partnership that addresses the extent to which the partnership brings together the public and private sectors of the community has been revised to include specific mention of the private nonprofit sector.

Analysis of Comments and Changes

In response to the Secretary's invitation in the NPRM, three parties submitted comments on the proposed regulations. An analysis of the comments follows.

Substantive issues are discussed under the section of the regulations to which they pertain.

Section 722.4 What Priorities May the Secretary Establish?

Comments: One party suggested that preference be given to programs that might inform national policy. The party recommended that the Secretary give priority only to projects that propose to promote systemic change and noted that projects that promote career awareness, tutorial or volunteer work, or academic internships would result in more limited changes. The party suggested that the

Secretary should give priority to projects that propose to use one or more of the following strategies: Curriculum and teaching methods, new management and organizational practices, staff development, involvement of business, and integrated services.

Discussion: The regulations already authorize the Secretary to establish a priority for projects that address certain aspects of the National Education Goals, which form the national policy. In addition, a factor in the review of all applications is the extent to which each proposed project is of national significance. The Secretary also conducts an evaluation of the Educational Partnerships Program, the results of which will be used to inform national policy.

Regarding the suggestion that the Secretary give priority only to projects that promote systemic change, § 722.4(b) gives the Secretary the option to establish systemic change as a priority in any fiscal year. However, the Secretary wishes to retain the flexibility to address other important priorities as well. Activities addressing career awareness, tutorial or volunteer work, academic internships, or the other activities described in § 722.3 are specifically authorized by the Act and may also be appropriate vehicles for school improvement.

Changes: None.

Section 722.21 What Selection Criteria Does the Secretary Use?

Comments: One party suggested that the selection criteria should be reorganized to begin with Need for the project. Another party suggested that the element of this criterion concerning the objectives that each member of the partnership expects to accomplish should be revised to focus on the benefits for students, parents, teachers and administrators. One party expressed concern that the criterion Composition of the eligible partnership excluded national organizations from participating in projects. Another party suggested that the criterion Composition of the eligible partnership should include a list of the kinds of organizations that should be included in a partnership, that paraphrases the kinds of organizations listed under § 722.2 (Who is eligible for an award?). One party suggested that the criterion Quality of key personnel was unnecessary.

Discussion: The Secretary generally recommends that applicants organize their applications in the order of the selection criteria, and agrees that beginning the selection criteria with

Need for the project would provide a better organization for an application. Regarding the recommendation to focus on the benefits for various clients of a project, the Secretary agrees that it is important to consider how a project will be of benefit to students, teachers, and other educational personnel. Although the Secretary believes that certain projects will include activities to promote parental involvement, the purpose of this Act is primarily to benefit students, teachers, and other educational personnel.

A national organization may be included in an eligible partnership if it is one of the entities specified in § 722.2 (Who is eligible for an award?). The Secretary believes that each applicant must determine the appropriate combination of entities in organizing an eligible partnership according to the requirements of § 722.2, and that including a list in the selection criteria might mislead applicants into believing that all of the possible entities must be included in each partnership. The Secretary agrees that including "private nonprofit" in the list of the sectors of the community that might be included in a partnership would better reflect the purpose of the program by clarifying that the private sector includes both profit and nonprofit entities.

The Secretary believes that reviewing the information about the key personnel who will conduct the proposed project is an essential part of evaluating an application, as the qualifications of the key personnel are relevant to the likelihood of the success of the project.

Changes: The selection criteria have been reorganized to begin with Need for the project. The criterion in § 722.21(a)(3) (Need for the project) has been revised to include consideration of the extent to which the objectives of the members of the partnership relate to benefits for students, teachers, and other educational personnel. The criterion in § 722.21(b)(1) (Composition of the eligible partnership) has been revised to expressly include mention of the private nonprofit sector.

Section 722.30 How Does the Secretary Limit the Use of Grant Funds?

Comments: One party suggested that the percentage of the grant that may be used for dissemination activities should be increased.

Discussion: The limitation to one percent of the grant for dissemination activities is required by the Act. However, grantees may use an unlimited amount of their matching funds or other resources for dissemination.

Changes: None.
General Comment:

Comments: One party suggested that the regulations should include information about the number and size of awards to be made.

Discussion: Information about the funding level and the estimated number of awards is included in the application notice published separately by the Secretary for each competition.

Changes: None.

Executive Order 12291

These regulations have been reviewed in accordance with Executive Order 12291. They are not classified as major because they do not meet the criteria for major regulations established in the order.

Intergovernmental Review

This program is subject to the requirements of Executive Order 12372 and the regulations in 34 CFR part 79. The objective of the Executive order is to foster an intergovernmental partnership and a strengthened federalism by relying on processes developed by State and local governments for coordination and review of proposed Federal financial assistance.

In accordance with the order, this document is intended to provide early notification of the Department's specific plans and actions for this program.

Assessment of Educational Impact

In the notice of proposed rulemaking, the Secretary requested comments on whether the proposed regulations would require transmission of information that is being gathered by or is available from any other agency or authority of the United States.

Based on the response to the proposed rules and on its own review, the Department has determined that the regulations in this document do not require transmission of information that is being gathered by or is available from any other agency or authority of the United States.

List of Subjects in 34 CFR Part 722

Education, Elementary and secondary education, Business, Colleges and universities, Grants, Reporting and recordkeeping requirements, Students, Teachers.

(Catalog of Federal Domestic Assistance Number 84.228, Educational Partnerships Program)

Dated: March 31, 1992.

Lamar Alexander,
Secretary of Education.

The Secretary amends title 34 of the Code of Federal Regulations by adding a new part 722 to read as follows:

PART 722—EDUCATIONAL PARTNERSHIPS PROGRAM

Subpart A—General

Sec.

722.1 What is the Educational Partnerships Program?

722.2 Who is eligible for an award?

722.3 What activities may the Secretary fund?

722.4 What priorities may the Secretary establish?

722.5 What regulations apply?

722.6 What definitions apply?

Subpart B—How Does One Apply for an Award?

722.10 What assurances must an applicant include in an application?

Subpart C—How Does the Secretary Make an Award?

722.20 How does the Secretary evaluate an application?

722.21 What selection criteria does the Secretary use?

722.22 What additional factors does the Secretary consider?

722.23 How is the Federal share of the cost of a project determined?

Subpart D—What Conditions Must Be Met After an Award is Made?

722.30 How does the Secretary limit the use of grant funds?

722.31 What dissemination activities shall a grantee conduct?

722.32 What additional requirements must be met by a grantee?

Authority: 20 U.S.C. 5031-5039, unless otherwise noted.

Subpart A—General

§ 722.1 What is the Educational Partnerships Program?

The Educational Partnerships Program encourages the creation of alliances between public elementary and secondary schools or institutions of higher education, or both, and the private sector in order to—

(a) Encourage excellence in education by applying the resources of the private and nonprofit sectors of the community to the needs of the public elementary and secondary schools or the institutions of higher education in that community;

(b) Encourage businesses to work with educationally disadvantaged and gifted students;

(c) Apply the resources of communities for the improvement of elementary and secondary education or higher education; and

(c) Enrich the career awareness of secondary or postsecondary students and provide exposure to the work of the private sector.

(Authority: 20 U.S.C. 5032)

§ 722.2 Who is eligible for an award?

(a) An eligible partnership may apply for an award.

(b) An eligible partnership must consist of one or more local educational agencies or institutions of higher education, or both, and one or more of the following:

- (1) A business concern.
- (2) A community-based organization.
- (3) A nonprofit private organization.
- (4) A museum.
- (5) A library.
- (6) An educational television or radio station.
- (7) An appropriate State agency.

Authority: 20 U.S.C. 5033, 5039

§ 722.3 What activities may the Secretary fund?

Under the Educational Partnerships Program, the Secretary may fund projects designed to do one or more of the following:

- (a) Through model cooperative programs, apply the resources of the private and nonprofit sectors of the community to improve the education of students in the public elementary and secondary schools or institutions of higher education in that community.
- (b) Encourage business concerns and other participants from the private sector to address the special educational needs of disadvantaged students or gifted and talented students, or both, in the public elementary and secondary schools or institutions of higher education.
- (c) Enrich the career awareness of public secondary students or postsecondary students through exposure to officers and employees of business concerns and other agencies and organizations participating in the eligible partnership.
- (d) Encourage tutorial and volunteer work in public elementary and secondary schools or institutions of higher education by personnel employed by business concerns and other participants in the eligible partnership.
- (e) Conduct academic internship programs, for students or teachers, including if possible the opportunity to earn academic credit, involving activities designed to carry out the purpose of this part.
- (f) Provide special training for staff to develop skills necessary to facilitate cooperative arrangements between the private and nonprofit sectors and local educational agencies or institutions of higher education.
- (g) Conduct statewide activities to carry out the purpose of this part, including the development of model State statutes for the support of cooperative arrangements between the

private and nonprofit sectors and local educational agencies or institutions of higher education.

(Authority: 20 U.S.C. 5034)

§ 722.4 What priorities may the Secretary establish?

The Secretary may establish as a priority, in any fiscal year, one or more or any combination of activities that carry out the purpose of this program, including the following:

(a) Projects that directly address one or more of the following elements of the National Education Goals:

- (1) School readiness.
- (2) Increased high school graduation rates.
- (3) Improved achievement in specific subject areas, such as English, mathematics, science, history, or geography.
- (4) Preparation for responsible citizenship.
- (5) Preparation for employment or further education for secondary school students after they complete high school.
- (6) Improved learning environment.
- (7) Reduced presence of drugs and violence in schools.

(b) Projects designed to operate within the context of broader school improvement efforts such as effective schools initiatives, providing choice, restructuring, or other approaches to systemic change.

(c) Projects designed to serve historically underrepresented and underserved populations of students, including females, minorities, students with disabilities, students with limited English proficiency, and migrant students.

(d) Projects operated on a statewide or multi-state basis.

(e) Projects that involve businesses in carrying out the project activities.

(f) One or more of the activities listed in § 722.3 or combinations of those activities.

(Authority: 20 U.S.C. 5004, 5031-5039)

§ 722.5 What regulations apply?

The following regulations apply to the Educational Partnerships Program:

(a) The Education Department General Administrative Regulations (EDGAR) as follows:

- (1) 34 CFR part 74 (Administration of Grants to Institutions of Higher Education, Hospitals, and Nonprofit Organizations).
- (2) 34 CFR part 75 (Direct Grant Programs).
- (3) 34 CFR part 77 (Definitions that Apply to Department Regulations).

(4) 34 CFR part 79 (Intergovernmental Review of Department of Education Programs and Activities).

(5) 34 CFR part 80 (Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments).

(6) 34 CFR part 81 (General Education Provisions Act—Enforcement).

(7) 34 CFR part 82 (New Restrictions on Lobbying).

(8) 34 CFR part 85 (Governmentwide Debarment and Suspension (Nonprocurement) and Governmentwide Requirements for Drug-Free Workplace (Grants)).

(9) 34 CFR part 86 (Drug-Free Schools and Campuses).

(b) The regulations in this part 722.

(Authority: 20 U.S.C. 5031-5039)

§ 722.6 What definitions apply?

(a) *Definitions in the Act.* The following terms used in this part are defined in section 6049 of the Act:

Elementary school
Institution of higher education
Secondary school

(b) *Definitions in EDGAR.* The following terms used in this part are defined in 34 CFR 77.1:

Applicant
Application
EDGAR
Grant
Local educational agency
Nonprofit
State
State educational agency

(c) *Other definitions.* The following definitions also apply to this part:

Act means the Educational Partnerships Act of 1988.

Community-based organization means a local support, advocacy, special interest, or service group or agency, including, but not limited to, a parent-teacher organization, club, service organization, professional association, or city or county agency such as a police department of health and welfare department.

State agency means a public agency that operates at a State level, including a State educational agency (SEA).

(Authority: 20 U.S.C. 5031-5039)

Subpart B—How Does One Apply for an Award?**§ 722.10 What assurances must an applicant include in an application?**

An applicant must include in an application assurances that the eligible partnership will—

(a) Pay from non-Federal funds the non-Federal share of the cost of activities for which assistance is sought;

(b) Take such steps as may be available to it to continue the activities for which assistance is sought after the period of Federal funding ends; and

(c) Disseminate information about the activities for which assistance is sought, using not more than one percent of the Federal funds awarded to the project in any fiscal year.

(Authority: 20 U.S.C. 5035)

Subpart C—How Does the Secretary Make an Award?

§ 722.20 How does the Secretary evaluate an application?

(a) The Secretary evaluates an application on the basis of the criteria in § 722.21.

(b) The Secretary awards up to 100 points for the criteria in § 722.21.

(c) The maximum possible score for each criterion is indicated in parentheses.

(Authority: 20 U.S.C. 5031-5039)

§ 722.21 What selection criteria does the Secretary use?

The Secretary uses the following criteria to evaluate an application:

(a) *Need for the project.* (15 points) The Secretary reviews each application to determine—

(1) The quality of the assessment of the needs to be addressed through the project;

(2) The magnitude of the need for the project in each elementary or secondary school or institution of higher education where the project would be carried out;

(3) The objectives that each member of the eligible partnership expects to accomplish through participation in this project, and how those objectives relate to benefits for students, teachers, and other educational personnel;

(4) The extent to which the needs identified can be addressed through the proposed partnership approach;

(5) The extent to which the proposed approach and activities make effective use of the resources of the eligible partnership;

(6) The extent to which the proposed activities will improve or expand the nature of support for elementary and secondary education in the community or in the State; and

(7) The national significance of the proposed project.

(b) *Composition of the eligible partnership.* (15 points) The Secretary reviews each application to determine the extent to which—

(1) The eligible partnership brings together the public and private,

including private nonprofit, sectors of the community;

(2) The membership of the eligible partnership is relevant to the specific goals of the proposed project;

(3) Each of the members of the eligible partnership is committed to participate in the project if the project is selected for funding.

(c) *Plan of operation.* (30 points) The Secretary reviews each application to determine the quality of the design of the proposed project and the applicant's plans for carrying it out, including the quality of—

(1) The applicant's plans to carry out one or more of the activities described in § 722.3, including specific measurable goals for the project, a timetable of important milestones to be accomplished during the project, and appropriate measures for determining whether project goals are reached;

(2) The organizational plans for staffing and management to ensure communication and coordination among and between members of the eligible partnership;

(3) The plans for each member of the eligible partnership to assume specific responsibilities for carrying out project activities;

(4) The plans to provide training and supervision of personnel from the private sector who may participate in tutoring and other volunteer activities in elementary and secondary schools, if these volunteer activities are proposed;

(5) The plans to provide training for educational personnel, employees of the members of the eligible partnership, and other project participants, if this training is proposed;

(6) The plans to disseminate information about successful project activities, or materials developed by the project, to others who might find them of value; and

(7) The plans to continue successful project activities after the period of Federal support has ended.

(d) *Quality of key personnel.* (10 points)

(1) The Secretary reviews each application to determine the quality of key personnel the applicant plans to use on the project, including—

(i) The qualifications of the project director;

(ii) The qualifications of each of the other key personnel to be used on the project;

(iii) The time that each person referred to in paragraphs (d)(1) (i) and (ii) of this section will commit to the project; and

(iv) How the applicant, as part of its nondiscriminatory employment practices, will ensure that its personnel

are selected for employment without regard to race, color, national origin, gender, or disabling condition.

(2) To determine the qualifications of personnel referred to in paragraphs (d)(1) (i) and (ii) of this section, the Secretary considers—

(i) Experience and training in fields related to the objectives of the project; and

(ii) Any other qualifications that pertain to the project.

(e) *Evaluation plan.* (15 points) The Secretary reviews each application to determine the quality of the evaluation plan for the project, including the extent to which the applicant's methods of evaluation—

(1) Will allow the applicant to assess its progress toward meeting project goals and objectives;

(2) Are objective, include outcome measures, and will produce data that are both qualitative and quantitative;

(3) Will document information about project activities, participants, and accomplishments;

(4) Will document the extent to which activities assisted through the project have improved or expanded the nature of support for elementary and secondary education in the community or in the State; and

(5) Will document the impact of activities assisted through the project upon the educational characteristics of the participating elementary and secondary schools and institutions of higher education and upon the members of the eligible partnership.

(f) *Cost-effectiveness and adequacy of budget and resources.* (15 points) The Secretary reviews each application to determine the extent to which—

(1) The budget is adequate to support the project;

(2) Costs are reasonable in relation to the objections of the project;

(3) The members of the eligible partnership or other sources are committed to provide for each year of funding requested the applicant's share of the total cost of the project as determined by § 722.23; and

(4) The specific resources, including personnel, facilities, equipment and supplies, that will be provided by each member of the eligible partnership are adequate to support the project.

(Authority: 20 U.S.C. 5031-5039)

(Approved by the Office of Management and Budget under control number 1850-0648)

§ 722.22 What additional factors does the Secretary consider?

(a) In determining the order of selection for awards under the Educational Partnerships program, the

Secretary makes no award that would result in a total amount of funds awarded in any State in any fiscal year exceeding the greater of—

(1) 15 percent of the funds appropriated under this part for that fiscal year; or

(2) \$1,000,000.

(b)(1) Before an application proposing activities related to elementary and secondary education is selected for funding, the Secretary provides an opportunity for the SEA for each State in which any member of the eligible partnership is located to review the application.

(2) If the SEA notifies the Secretary that the application is inconsistent with State plans for elementary and secondary education, the Secretary does not select that application for funding.

(Authority: 20 U.S.C. 5036, 5037)

§ 722.23 How is the Federal share of the cost of a project determined?

The Federal share of the total cost of each project selected for funding may not exceed—

- (a) 90 percent for the first year;
- (b) 75 percent for the second year;
- (c) 50 percent for the third year; and
- (d) 33 1/2 percent for the fourth year.

(Authority: 20 U.S.C. 5037)

Subpart D—What Conditions Must Be Met After an Award Is Made?

§ 722.30 How does the Secretary limit the use of grant funds?

(a) Not more than one percent of a grant may be used to pay for the dissemination activities described in § 722.31 in any fiscal year.

(b) The Secretary may restrict the amount of funds made available for capital equipment purchases to a certain percentage of the total grant for a project.

(Authority: 20 U.S.C. 5035)

§ 722.31 What dissemination activities shall a grantee conduct?

(a) A grantee shall disseminate information about the activities conducted through the project.

(b) To disseminate information about project activities, a grantee may use strategies including, but not limited to—

(1) Providing descriptive materials to interested parties;

(2) Making presentations at conferences;

(3) Submitting articles about the project to appropriate publications; and

(4) Submitting the project for review by the Program Effectiveness Panel of the National Diffusion Network in accordance with 34 CFR part 786.

(Authority: 20 U.S.C. 5035)

§ 722.32 What additional requirements must be met by a grantee?

A grantee shall participate in meetings and workshops conducted by the Secretary to the extent funds are provided in the grant for this purpose.

(Authority: 20 U.S.C. 5035, 5038)

[FR Doc. 92-0431 Filed 4-22-92; 8:45 am]

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federal register

**Thursday
April 23, 1992**

Part V

Department of Education

**Educational Partnerships Program; Notice
Inviting Applications for New Awards for
Fiscal Years 1992 and 1993**

DEPARTMENT OF EDUCATION

[CFDA No: 84.228]

**Educational Partnerships Program;
Notice Inviting Applications for New
Awards for Fiscal Years (FY) 1992 and
1993**

Purpose of program: To encourage the creation of alliances between public elementary and secondary schools or institutions of higher education and representatives of the private sector in order to work together on school improvement projects.

Eligible Applicants: Only eligible partnerships may receive grants under this program. An eligible partnership must include one or more local educational agencies or institutions of higher education, or both, and must also include one or more of the following:

- (1) Business concerns;
- (2) Community-based organizations;
- (3) Nonprofit private organizations;
- (4) Museums;
- (5) Libraries;
- (6) Educational television or radio stations;
- (7) Appropriate State agencies.

Any member of the eligible partnership may serve as the applicant and fiscal agent for the project.

Deadline for Transmittal of Applications: 6/15/92.

Deadline for Intergovernmental Review: 8/17/92.

Applications Available: 4/29/92.

Available Funds: \$1,100,000 in FY 1992; An estimated \$1,100,000 in FY 1993.

Estimated Range of Awards: \$100,000-\$400,000 for the first year of the project.

Estimated Average Size of Awards: \$250,000.

Estimated Number of Awards: 3-5 in FY 1992 and 3-5 in FY 1993.

Note: The Department is not bound by any estimates in this notice.

Project Period: Up to 48 months.

Applicants may plan to begin project activities in September of 1992 or November of 1992.

Applicable Regulations: The Education Department General

Administrative Regulations (EDGAR) in 34 CFR parts 74, 75, 77, 79, 80, 81, 82, 85, 86; and (b) the regulations for this program in 34 CFR part 722, as published in this issue of the Federal Register.

SUPPLEMENTARY INFORMATION: It is the Department's intent to fund two cycles of awards from this competition. The highest ranked applications will be funded in the first cycle of projects which will be awarded from Fiscal Year 1992 funds in September 1992. The next highest ranked applications will be funded in the second cycle in November 1992, pending availability of Fiscal Year 1993 funds.

Priority: Under 34 CFR 75.105(c)(3) and 34 CFR 722.4, the Secretary gives an absolute preference to applications that meet the following priority. The Secretary funds under this competition only applications that meet this absolute priority: *Fundamental Educational Improvement Through the Strategy of Systemic Change.*

Projects designed to operate within the context of broader school improvement efforts such as effective schools initiatives, providing choice, restructuring, or other approaches to systemic change and that directly address one or more of the following elements of the National Education Goals: (1) School readiness; (2) Improved achievement in specific subject areas, such as English, mathematics, science, history, and geography; and (3) Preparation for responsible citizenship.

The following illustrate some of the kinds of systemic change the Secretary is particularly interested in supporting:

(1) Change initiatives in which businesses, education officials, and other community leaders identify the needs and areas for improvement in the educational and service delivery system, look critically at all aspects of schooling (including mission and goals; organization and management; roles and responsibilities; curriculum, instruction, and assessment; training and professional development; school finance and reallocation of resources;

and involvement of educational personnel, the community and parents), develop a comprehensive plan for change, and work over the long term to make those changes happen.

(2) Substantive changes in state legislation or local school governance that impact the overall direction of the educational system and lead to school improvement.

(3) Change initiatives to link curriculum, teacher education and training, certification and recertification, instructional materials, and assessments to high student academic standards.

(4) Structural change in the roles, relationships, and authority of the partnership members.

(5) Change in all parts of the system necessary for coherence and the success and continuation of the educational improvement initiative.

(6) Institutionalization of processes, functions, or structures introduced by the project such that:

(a) They are integrated into the natural workings of organizations that are a part of the project or in the project's environment;

(b) They endure beyond the period of outside funding; and

(c) The project's effects or outcomes are sustained over time.

For Application or Information Contact: Susan Gruskin, U.S. Department of Education, 555 New Jersey Avenue NW., room 502, Washington, DC 20208-5644. Telephone 202-219-2116. You may also request an application by facsimile machine on 202-219-2106. Deaf and hearing impaired individuals may call the Federal Dual Party Relay Service at 1-800-877-8339 (in the Washington, DC, 202 area code, telephone 708-9300) between 8 a.m. and 7 p.m., Eastern time.

Program Authority: 20 U.S.C. 5031-5039.

Dated: April 17, 1992.

Diane Ravitch,

Assistant Secretary for Educational Research and Improvement.

[FR Doc. 92-9430 Filed 4-22-92; 8:45 am]

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federal register

**Thursday
April 23, 1992**

Part VI

Department of Health and Human Services

Office of Community Services

**Request for Applications Under the
Office of Community Services' Fiscal
Year 1992 Training and Technical
Assistance Program; Notice**

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of Community Services

[Program Announcement No. OCS 92-3]

Request for Applications Under the Office of Community Services' Fiscal Year 1992 Training and Technical Assistance Program

AGENCY: Administration for Children and Families (ACF), DHHS.

ACTION: Request for applications under the Office of Community Services' Training and Technical Assistance Program.

SUMMARY: The Office of Community Services (OCS) announces that competing applications will be accepted for new grants pursuant to the Secretary's discretionary authority under section 681(a)(3) of the Community Services Block Grant Act of 1981 (title VI of Pub. L. 97-35, the Omnibus Budget Reconciliation Act of 1981, 42 U.S.C. 9910(a)(3)). This Program Announcement consists of seven parts. Part A covers information on the legislative authority and defines terms used in the Program Announcement. Part B describes the types of activities that will be considered for funding. Part C provides details on who is eligible to apply and application prerequisites. Part D provides information on application procedures including the availability of forms, where to submit an application, criteria for initial screening of applications, and project evaluation criteria. Part E provides guidance on the content of an application package and the application itself. Part F provides instructions for completing an application. Part G details post-award requirements.

CLOSING DATE: The closing date for submission of applications is June 22, 1992.

FOR FURTHER INFORMATION CONTACT: Mae Brooks, Division of Block Grants, Office of Community Services, Administration for Children and Families, 370 L'Enfant Promenade SW., Washington, DC 20447. You may also call (202) 401-9343.

Part A—Preamble

1. Legislative Authority

Section 681(a)(3) of the Community Services Block Grant (CSBG) Act authorizes the Secretary of Health and Human Services to make funds available to States and public and private nonprofit organizations to provide for training and technical assistance to aid States in carrying out

their responsibilities under the CSBG Act.

2. Definitions of Terms

For purposes of this Program Announcement the following definitions apply:

Training is an educational activity or event which is designed to impart knowledge, understanding, or increase the development of skills. Such training activities may be in the form of assembled events such as workshops, seminars, or programs of self-instructional activities.

Technical assistance is a problem-solving event generally utilizing the services of an expert. Such services may be provided on-site, by telephone, or other communications. These services address specific problems and are intended to assist with the immediate resolution of a given problem or set of problems.

State means all of the States and the District of Columbia. Except where specifically noted, for purposes of this Program Announcement it also means "Territory."

Territory refers to the Commonwealth of Puerto Rico, the American Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and the Republic of Palau.

Local service providers are the approximately 1,000 local public or private nonprofit agencies that receive Community Services Block Grant funds from States to provide services to, or undertake activities on behalf of, low-income people.

Part B—Purpose

Section 681(a)(3) of the CSBG Act authorizes the Secretary of the Department of Health and Human Services to make grants to States and public agencies and private nonprofit organizations, or to enter into contracts or jointly financed cooperative arrangements with States and public agencies and private nonprofit organizations, to provide for training and technical assistance to aid States in carrying out their responsibilities for conducting and administering the CSBG Program. In addition, in its report on the Department's FY 1992 Appropriation Bill, Senate Report Number 104, 102d Congress, 1st Session 186 (1991), indicated that the funds (\$500,000) to be made available in FY 1992 were to be used " * * * to develop and implement a comprehensive training program utilizing organizations that have demonstrated familiarity and expertise nationwide with training and technical assistance needs of community action agencies." (Emphases added.)

OCS is soliciting applications which implement these legislative mandates on a national basis and in a comprehensive manner. Funds will be provided in the form of grants in keeping with the block grant concept that needs are best identified at the State or local levels—not at the Federal level.

Proposed projects under this Program Announcement must focus on one of the following program priorities:

(1) Training and Technical Assistance

The development and implementation of a comprehensive, nationwide training and/or technical assistance program to assist staff of local service providers which receive funding under the CSBG Act, to acquire the skills and knowledge needed to administer and implement programs designed to ameliorate the causes of poverty in the communities. The programs must include the provision of training and/or technical assistance to staff of a significant number of local service providers nationwide, i.e. in each of the Federal Regions, in the most cost effective manner possible. Collaboration with State CSBG coordinators and local service providers will be required in identifying the training and technical assistance needs of staff of local service providers.

(2) Data Collection

The design of a survey instrument, and the collection, analysis, and dissemination of information on CSBG Programs on a nationwide basis through a process that relies on voluntary State cooperation. The information must be comprehensive enough and disseminated in such a format as to enable States and local service providers to improve their planning, management, and delivery of services.

Submissions which propose the use of grant funds for the development of any printed or visual materials must contain convincing evidence that these materials are not available from other sources. OCS will not provide funding for such items if justification is not sufficient. Any films or visual presentations will be approved for development at the time the proposal is submitted to the Office of Community Services.

See part F, section 4, for special instructions on developing a work program.

Part C—Application Prerequisites

1. Eligible Applicants

Eligible applicants are States, public agencies and private non-profit organizations that can demonstrate familiarity and expertise nationwide

with the training and/or technical assistance needs of community action agencies.

2. Available Funds

The amount of funds available for grant awards under this announcement in FY 92 is \$600,000. Five hundred thousand dollars (\$500,000) is available for training and technical assistance activities and \$100,000 is available for data collection activities. No single request for funds for T&TA activities should exceed \$275,000. It is anticipated that a minimum of two grants will be made for T&TA activities. One grant will be made for data collection.

3. Mobilization of Resources

OCS would like to mobilize as many resources as possible to enhance projects funded under this program. Proposals submitted by applicants whose programs will leverage other matching funds and resources, such as cash or third-party in-kind contributions, will be looked upon favorably and will be eligible to receive additional points in the competitive review process. Applicants that have failed to generate matching funds and resources on prior OCS grants will not receive additional points.

4. Grant Duration

OCS will grant funds for 12-month project and budget periods. The application must clearly demonstrate that the project work plan will achieve measurable results and can be successfully completed within one year.

5. Project Beneficiaries

Projects proposed for funding under the training and technical assistance priority area must result in direct benefits to staff of local service providers in carrying out their responsibilities under the Community Services Block Grant Act.

6. Sub-Contracting or Delegating Projects

OCS will not fund any project where the role of the applicant is primarily to serve as a conduit for funds to organizations other than the applicant. This prohibition does not bar the making of subgrants or subcontracting for specific services or activities needed to conduct the project. However, the applicant must have a substantive role in the implementation of the project for which funding is requested.

Part D—Application Procedures

1. Availability of Forms

Attachments A, B and C contain all of the standard forms necessary for the

application for awards under these OCS programs. These forms may be photocopied for use in developing the application.

Copies of the Federal Register containing this announcement are available at most local libraries and Congressional District Offices for reproduction. If copies are not available at these sources, they may be obtained by writing or telephoning the office listed under the section entitled **FOR FURTHER INFORMATION** at the beginning of this announcement.

For purposes of this announcement, all applicants will use SF-424, SF-424A, and SF-424B. Instructions for completing the SF-424, SF-424A, and SF-424B are found in Attachments A, B, and C and Part F.

Part F contains instructions for the project narrative. The project narrative will be submitted on plain bond paper along with the SF-424 and related forms.

Attachment I provides a checklist to aid applicants in preparing a complete application package for OCS.

2. Application Submission

Refer to the section entitled "Closing Date" at the beginning of this Program Announcement for the last day on which applications may be submitted. Applications may be mailed to: Administration for Children and Families, Division of Discretionary Grants, 6th Floor OFM/DGM, 370 L'Enfant Promenade SW., Washington, DC 20447.

Hand-delivered applications are accepted during normal working hours of 8 a.m. to 4:30 p.m., Monday through Friday, except legal holidays, on or prior to the established closing date at: Administration for Children and Families, Division of Discretionary Grants, Sixth Floor, 901 D Street SW., Washington, DC 20447.

An application shall be considered as meeting the announced deadline if it is either:

1. Received on or before the deadline date at a place specified in the Program Announcement, or

2. Sent on or before the deadline date and received by the granting agency in time for them to be considered during the competitive review and evaluation process. (Applicants are cautioned to request a legibly dated U.S. Postal Service postmark or to obtain a legibly dated receipt from a commercial carrier or the U.S. Postal Service. Private metered postmarks are not acceptable as proof of timely mailing.)

Applications which do not meet one of these criteria are considered late applications. The ACF Division of Discretionary Grants will notify each

late applicant that its application will not be considered in this competition.

The ACF Office of Community Services may extend the deadline for all applicants because of acts of God such as floods, hurricanes, etc. or when there is a disruption of the mails. However, if the Office of Community Services does not extend the deadline for all applicants, it may not waive or extend the deadline for any applicant.

Applications once submitted are considered final and no additional materials will be accepted.

One signed original application and four copies should be submitted.

3. Intergovernmental Review

This program is covered under Executive Order 12372, "Intergovernmental Review of Federal Programs" and 45 CFR part 100, "Intergovernmental Review of Department of Health and Human Services Programs and Activities." Under the Order, States may design their own processes for reviewing and commenting on proposed Federal assistance under covered programs.

All States and Territories except Alaska, Idaho, Kansas, Louisiana, Minnesota, Nebraska, Pennsylvania, Virginia, American Samoa and Palau have elected to participate in the Executive Order process and have established Single Points of Contact (SPOCs). Applicants from these jurisdictions need take no action regarding E.O. 12372. Applicants for projects to be administered by Federally-recognized Indian Tribes are also exempt from the requirements of E.O. 12372. Otherwise, applicants should contact their SPOCs as soon as possible to alert them of the prospective applications and receive any necessary instructions, so that the program office can obtain and review SPOC comments as part of the award process. It is imperative that the applicant submit all required materials, if any, to the SPOC and indicate the date of this submittal (or the date of contact if no submittal is required) on the Standard Form 424A, item 16a.

Under 45 CFR 100.8(a)(2), a SPOC has 60 days from the application deadline date to comment on proposed new awards. SPOCs are encouraged to eliminate the submission of routine endorsements as official recommendations. Additionally, SPOCs are requested to clearly differentiate between mere advisory comments and those official State process recommendations which they intend to trigger the "accommodate or explain" rule under 45 CFR 100.10.

When comments are submitted directly to ACF, they should be addressed to: Department of Health and Human Services, Administration for Children and Families, Division of Grants Management, 6th Floor, 370 L'Enfant Promenade SW., Washington, DC 20447.

A list of the Single Points of Contact for each State and Territory is included as appendix G of this announcement.

4. Application Consideration

Applications which meet the screening requirements in sections 5a and 5b below will be reviewed competitively. Such applications will be referred to reviewers for a numerical score and explanatory comments based solely on responsiveness to program guidelines and evaluation criteria published in this announcement.

Applications will be reviewed by persons outside of the OCS unit which would be directly responsible for programmatic management of the grant. The results of these reviews will assist OCS in considering competing applications. Reviewers' scores will weigh heavily in funding decisions but will not be the only factors considered. Applications will be ranked and generally considered in order of the average scores assigned by reviewers. However, highly ranked applications are not guaranteed funding since the other factors deemed relevant may be considered including, but not limited to, the timely and proper completion of projects funded with OCS funds granted in the past 5 years; comments of reviewers and government officials; staff evaluation and input; geographic distribution; previous program performance of applicants; compliance with grant terms under previous DHHS grants; audit reports; investigative reports; and applicant's progress in resolving any final audit disallowances on OCS or other Federal agency grants.

OCS reserves the right to discuss applications with other Federal or non-Federal funding sources to ascertain the applicant's performance record.

5. Criteria for Screening Applications

a. Initial Screening

All applicants will receive an acknowledgement with an assigned identification number. This number, along with any other identifying codes, must be referenced in all subsequent communications concerning the application. If an acknowledgement is not received within three weeks after the deadline date, please notify ACF by telephone at (202) 401-9230. All applications that meet the published

deadline for submission will be screened to determine completeness and conformity to the requirements of this announcement. Only those applications meeting the following requirements will be reviewed and evaluated competitively. Others will be returned to the applicants with a notation that they were unacceptable.

(1) The application must contain a Standard Form 424 "Application for Federal Assistance" (SF-424), a budget (SF-424A), and signed "Assurances" (SF-424B) completed according to instructions published in part F and attachments A, B, and C of this program announcement.

(2) A project narrative must also accompany the standard forms.

(3) The SF-424 and the SF-424B must be signed by an official of the organization applying for the grant who has authority to obligate the organization legally.

b. Pre-rating Review

Applications which pass the initial screening will be forwarded to reviewers and/or OCS staff to verify, prior to the programmatic review, that the applications comply with this Program Announcement in the following areas:

(1) *Eligibility.* Applicant meets the eligibility requirements found in part C. Applicant also must be aware that the applicant's legal name as required on the SF 424 (Item 5) must match that listed as corresponding to the Employer Identification Number (Item 8).

(2) *Duration of project.* The application contains a project that can be successfully implemented in 12 months.

(3) *Target populations.* The application clearly targets the specific outcomes and benefits of the project to State recipients of CSBG funds and/or local providers of CSBG-funded services and activities.

(4) *Program focus.* The application must address development and implementation of a nationwide, comprehensive training and/or technical assistance or data collection activities as described in Part B of this announcement.

An application may be disqualified from the competition and returned to the applicant if it does not conform to one or more of the above requirements.

c. Evaluation Criteria

Applications which pass the pre-rating review will be assessed and scored by reviewers. Each reviewer will give a numerical score for each application reviewed. These numerical scores will be supported by explanatory

statements on a formal rating form describing major strengths and major weaknesses under each applicable criterion published in this announcement. The in-depth evaluation and review process will use the following criteria coupled with the specific requirements contained in Part B.

Note. The following review criteria reiterate collection of information requirements contained in part F of this announcement. These requirements are approved under OMB Control Number 0970-0062.

Criteria for Review and Evaluation of Applications Submitted Under This Program Announcement

(1) *Criterion I: Need for Assistance* (Maximum: 20 points).

(a) The application documents that the project addresses a vital nationwide need related to the purposes of this Program Announcement (part B) and provides statistics and other data and information in support of its contention (0-10 points).

(b) Provides current supporting documentation or other testimonies from State CSBG Directors and local service providers or State and Regional organizations of local service providers (0-10 points).

(2) *Criterion II: Work Program* (Maximum: 30 points).

(a) Goals are appropriately related to needs and are specific and measurable (0-10 points).

(b) Activities are comprehensive and nationwide in scope, and adequately described and appropriately related to goals (0-10 points).

(c) Time frames and chronology of key activities are realistic (0-2 points).

(d) The plan for conducting an assessment that will determine the degree to which the stated goals and objectives of the project are achieved is adequate and workable and, where appropriate, the plan for disseminating the information resulting from the project to CSBG grantees, local service providers, and other interested parties is workable and assures that all relevant parties are included in the dissemination. (0-8 points).

(3) *Criterion III: Significant and Beneficial Impact* (Maximum 25 points)

(a) Applicant adequately describes how the project will assure long-term program and management improvements for States and/or local providers of CSBG services and activities (0-10 points).

(b) For T&TA applications: The project will impact on a significant

number of local service providers (0-10 points).

(c) For data collection applications: The applicant has the ability to collect data from a significant number of States (0-10 points).

(d) The project will leverage or mobilize significant other resources for the direct benefit of the project (0-5 points).

(4) *Criterion IV: Ability of Applicant to Perform* (Maximum: 20 points).

(a) The application demonstrates that the applicant has experience relevant to the activities that it proposes to undertake (0-10 points).

(b) The application's proposed project director and primary staff are well qualified and their professional experiences are relevant to the successful implementation of the proposed project (0-10 points).

(5) *Criterion V: Adequacy of Budget* (Maximum: 5 points).

(a) The resources requested are reasonable and adequate to accomplish the project (0-2 points).

(b) Total costs are reasonable and consistent with anticipated results (0-2 points).

Part E—Contents of Application and Receipt Process

1. Contents of Application

Each application, should include one original and four additional copies of the following:

a. A completed Standard Form 424 which has been signed by an official of the organization applying for the grant who has authority to obligate the organization legally. The applicant must be aware that in signing and submitting the application for this award, it is certifying that it will comply with the Federal requirements concerning the drug-free workplace and debarment regulations set forth in Attachments D and E.

b. "Budget Information—Non-Construction Programs" (SF-424A).

c. A filled out, signed and dated "Assurances—Non-Construction Programs" (SF-424B), Attachment C.

d. Restrictions on Lobbying—Certification for Contracts, Grants, Loans, and Cooperative Agreements: Fill out, sign and data form found at attachment F.

e. Disclosure of Lobbying Activities, SF-LLL: Fill out, sign and date form found at attachment F, as appropriate.

f. A Project Narrative consisting of the following elements preceded by a consecutively numbered Table of Contents that will describe the project in the following order:

(i) Need for Assistance.

(ii) Work Program.

(iii) Significant and Beneficial Impact.

(iv) Management History.

(v) Staffing and Resources.

(vi) Appendices including By-Laws; Articles of Incorporation; Certification Regarding Lobbying; resumes, etc.

The original must bear the signature of the authorizing official representing the applicant organization. The total number of pages for the entire application package should not exceed 30 pages, including appendices. Pages should be numbered sequentially throughout. If appendices include photocopied materials, they must be legible. Applications should be submitted in ring-binders that will allow for easy separation and reassembly.

Applications must be uniform in composition since OCS may find it necessary to duplicate them for review purposes. Therefore, applications must be submitted on white 8½ x 11 inch paper only. They must not include colored, oversized or folded materials. Do not include organizational brochures or other promotional materials, slides, films, clips, etc. in the proposal. They will be discarded if included.

Part F—Instructions for Completing Applications

(Approved by the Office of Management and Budget under Control Number 0970-0062)

The standard forms attached to this announcement shall be used to apply for funds under this announcement.

It is suggested that you reproduce the SF-424 and SF-424A (Attachments A and B) and type your application on the copy.

If an item cannot be answered or does not appear to be related or relevant to the assistance requested, write "NA" for "not applicable." Prepare your application in accordance with the standard instructions which coincide with the forms, as well as the OCS specific instructions set forth below.

1. SF-424—"Application for Federal Assistance"

Item #1—For purposes of this announcement, all projects are considered "Applications;" there are no "Pre-applications." Also, all projects are considered non-construction. Check the appropriate box under "Application."

Items #5 and #6—The legal name of the applicant must correspond to the name associated with the Employer Identification Number.

Item #7—If applicant is a "nonprofit organization," enter "N" in the box and specify "nonprofit organization" in the space marked "Other." Proof of nonprofit status must be included with the application.

Item #8—All applications are "New."

Item #9—Enter "DHHS-ACF-OCS."

Item #10—The Catalog of Federal Domestic Assistance Number for projects covered under this Announcement is 93.032.

Item #11—In addition to a brief descriptive title of the project, the following letter designations must be used: "TA"—for training and technical assistance projects; "TD"—for data collection activities.

2. SF-424A—"Budget Information—Non-Construction Programs"

See instructions accompanying this form. In completing these sections, the "Federal Funds" budget entries will relate to the requested OCS funds only, and "Non-Federal" will include leveraged funds from other sources.

3. SF-424B—"Assurances—Non-Construction"

All applicants must fill out, sign, date, and return the "Assurances" found at Attachment C with their application.

4. Project Narrative

The narrative section of the application must address one or more of the focus areas described in part B and follow the format outlined below.

a. Need for Assistance

The application should identify the problem areas in which State recipients of CSBG funds and/or local service providers are seeking assistance and how those needs were identified. Applicants also should provide current supporting documentation or other testimonies from State CSBG Directors and local service providers or State and Regional organizations of local service providers, as appropriate, regarding need for the proposed project.

b. Work Program

The application must contain a detailed and specific work program that is both sound and feasible. Applicants must address how the proposed project will carry out the legislative mandate and the program activities found in Part B. This section of the narrative must include the goals of the project related to the needs, the activities that they propose to carry out to address those goals, the methods by which they will carry out those activities, and the plan for disseminating products resulting from the project, where appropriate. Project activities must be described in a quantitative manner, e.g. number of training days, number of workshops, number of persons to be trained, number of local services providers to be

impacted, materials to be developed, etc. The applicant must define the comprehensive nature of the proposed project and the methods which will be used to ensure that it is a nationwide project.

For data collection projects, applicants should, at a minimum, describe the methodology to be used to identify the kind of data to be collected, how the data will be collected, how the applicant will assure that the appropriate data will be collected, a plan for data analysis, the methods by which the data will be disseminated and the audiences, and a plan for conducting an assessment of the usefulness of data collected.

The application must (1) set forth realistic quarterly time target, by which the various work tasks will be completed; (2) include a plan for conducting an assessment of its activities as they relate to the goals and objectives; and (3) include a description of how the applicant will involve other appropriate organizations in the planning or implementation of the project in order to avoid duplication of effort and to leverage additional resources.

c. Significant and Beneficial Impact

Each applicant also must indicate how the project will have a significant and beneficial impact. At a minimum the applicant must provide (1) a description of how the project will result in long-term improvements for States and/or local providers of CSBG services and activities, (2) the number of local service providers and/or staff it will impact, and (3) the types and amounts of public and/or private resources it will mobilize and how those resources will directly benefit the project OR a description of the mechanism the applicant will use to collect data, how it can assure collections from a significant number of states, and how many states will be willing to submit data to the applicant.

d. Ability of Applicants to Perform

Organizations must detail their competence in the specific program area. Documentation must be provided which addresses (1) accomplishments relevant to the proposed project, and (2) experience relevant to the CSBG program. Organizations which propose providing training and technical assistance must detail their competence in the specific program priority area and as a deliverer with expertise in the fields of training and technical assistance on a nationwide basis. If applicable, information provided by these applicants must also address related achievements and competence of each cooperating or sponsoring organization.

d. Staffing and Resources

The application must fully describe (e.g. a resume) the experience and skills of the proposed project director and primary staff showing that the individuals are not only well qualified but that their professional capabilities are relevant to the successful implementation of the proposed project.

Part G—Post Award Information and Reporting Requirements

Following approval of the applications selected for funding, notice of project approval and authority to draw down project funds will be made in writing. The official award document is the Notice of Grant Award which provides the amount of Federal funds approved for use in the project, the project and budget periods for which support is provided, the terms and conditions of the award, and the total project period for which support is contemplated.

In addition to the General Conditions and Special Conditions (where the latter are warranted) which will be applicable to grants, grantee will be subject to the provisions of 45 CFR parts 74 (non-governmental) and 92 (governmental) and OMB Circulars A-128 and A-133.

Grantees will be required to submit quarterly progress and financial reports (SF-269) as well as a final progress and financial report.

Grantees are subject to the audit requirements in 45 CFR parts 74 (non-governmental) and 92 (governmental) and OMB Circulars A-128 and A-133.

Section 1352 of Public Law 101-121, signed into law on October 23, 1989, imposes new prohibitions and requirements for disclosure and certification related to lobbying on recipients of Federal contracts, grants, cooperative agreements, and loans. It provides exemptions for Indian tribes and tribal organizations. Current and prospective recipients (and their sub-tier contractors and/or grantees) are prohibited from using Federal funds, other than profits from a Federal contract, for lobbying Congress or any Federal agency in connection with the award of a contract, grant, cooperative agreement, or loan. In addition, for each award action in excess of \$100,000 (or \$150,000 for loans) the law requires recipients and their sub-tier contractors and/or subgrantees (1) to certify that they have neither used nor will use any appropriated funds for payment to lobbyists, (2) to disclose the name, address, payment details, and purpose of any agreements with lobbyists whom recipients or their sub-tier contractors or subgrantees will pay with profits or nonappropriated funds on or after December 22, 1989, and (3) to file quarterly up-dates about the use of lobbyists if material changes occur in their use. The law establishes civil penalties for noncompliance. See Attachment F for certification and disclosure forms to be submitted with the applications for this program. Attachment H indicates the regulations which apply to all applicants/grantees under this program.

Dated: April 16, 1992.

Eunice S. Thomas,
Director, Office of Community Services.

BILLING CODE 4130-01-M

Attachment A

**APPLICATION FOR
FEDERAL ASSISTANCE**

OMB Approval No. 0348-0043

1. TYPE OF SUBMISSION: Application ☐ Construction ☐ Preapplication ☐ Non-Construction ☐ Non-Construction		2. DATE SUBMITTED _____	Applicant Identifier _____																												
3. DATE RECEIVED BY STATE _____		State Application Identifier _____																													
4. DATE RECEIVED BY FEDERAL AGENCY _____		Federal Identifier _____																													
5. APPLICANT INFORMATION																															
Legal Name: _____		Organizational Unit: _____																													
Address (give city, county, state, and zip code): _____		Name and telephone number of the person to be contacted on matters involving this application (give area code): _____																													
6. EMPLOYER IDENTIFICATION NUMBER (EIN): 		7. TYPE OF APPLICANT: (enter appropriate letter in box) ☐ A. State B. County C. Municipal D. Township E. Interstate F. Intermunicipal G. Special District H. Independent School Dist. I. State Controlled Institution of Higher Learning J. Private University K. Indian Tribe L. Individual M. Profit Organization N. Other (Specify) _____																													
8. TYPE OF APPLICATION: ☐ New ☐ Continuation ☐ Revision If Revision, enter appropriate letter(s) in box(es): ☐ ☐ A. Increase Award B. Decrease Award C. Increase Duration D. Decrease Duration Other (specify): _____		9. NAME OF FEDERAL AGENCY: _____																													
10. CATALOG OF FEDERAL DOMESTIC ASSISTANCE NUMBER: 		11. DESCRIPTIVE TITLE OF APPLICANT'S PROJECT: _____																													
12. AREAS AFFECTED BY PROJECT (cities, counties, states, etc.): _____		13. PROPOSED PROJECT: Start Date: _____ Ending Date: _____																													
14. CONGRESSIONAL DISTRICTS OF: a. Applicant _____ b. Project _____		15. ESTIMATED FUNDING: <table border="1" style="width: 100%; border-collapse: collapse; font-size: x-small;"> <tr> <td style="width: 20%;">a. Federal</td> <td style="width: 10%;">\$</td> <td style="width: 10%;"></td> <td style="width: 10%;">.00</td> </tr> <tr> <td>b. Applicant</td> <td>\$</td> <td></td> <td>.00</td> </tr> <tr> <td>c. State</td> <td>\$</td> <td></td> <td>.00</td> </tr> <tr> <td>d. Local</td> <td>\$</td> <td></td> <td>.00</td> </tr> <tr> <td>e. Other</td> <td>\$</td> <td></td> <td>.00</td> </tr> <tr> <td>f. Program Income</td> <td>\$</td> <td></td> <td>.00</td> </tr> <tr> <td>g. TOTAL</td> <td>\$</td> <td></td> <td>.00</td> </tr> </table>		a. Federal	\$		.00	b. Applicant	\$		.00	c. State	\$		.00	d. Local	\$		.00	e. Other	\$		.00	f. Program Income	\$		.00	g. TOTAL	\$		.00
a. Federal	\$		.00																												
b. Applicant	\$		.00																												
c. State	\$		.00																												
d. Local	\$		.00																												
e. Other	\$		.00																												
f. Program Income	\$		.00																												
g. TOTAL	\$		.00																												
16. IS APPLICATION SUBJECT TO REVIEW BY STATE EXECUTIVE ORDER 12372 PROCESS? a. YES. THIS PREAPPLICATION/APPLICATION WAS MADE AVAILABLE TO THE STATE EXECUTIVE ORDER 12372 PROCESS FOR REVIEW ON DATE _____ b. NO. ☐ PROGRAM IS NOT COVERED BY E.O. 12372 ☐ OR PROGRAM HAS NOT BEEN SELECTED BY STATE FOR REVIEW		17. IS THE APPLICANT DELINQUENT ON ANY FEDERAL DEBT? ☐ Yes If "Yes," attach an explanation. ☐ No																													
18. TO THE BEST OF MY KNOWLEDGE AND BELIEF, ALL DATA IN THIS APPLICATION/PREAPPLICATION ARE TRUE AND CORRECT. THE DOCUMENT HAS BEEN DULY AUTHORIZED BY THE GOVERNING BODY OF THE APPLICANT AND THE APPLICANT WILL COMPLY WITH THE ATTACHED ASSURANCES IF THE ASSISTANCE IS AWARDED																															
a. Typed Name of Authorized Representative _____		b. Title _____	c. Telephone number _____																												
d. Signature of Authorized Representative _____		e. Date Signed _____																													

Previous Editions Not Usable

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Authorized for Local Reproduction

Standard Form 424 (REV 4-88)
Prescribed by OMB Circular A-102

INSTRUCTIONS FOR THE SF 424

This is a standard form used by applicants as a required facesheet for preapplications and applications submitted for Federal assistance. It will be used by Federal agencies to obtain applicant certification that States which have established a review and comment procedure in response to Executive Order 12372 and have selected the program to be included in their process, have been given an opportunity to review the applicant's submission.

Item and Entry

1. Self-explanatory.
2. Date application submitted to Federal agency (or State if applicable) & applicant's control number (if applicable).
3. State use only (if applicable).
4. If this applicable is to continue or revise an existing award, enter present Federal identifier number. If for a new project, leave blank.
5. Legal name of applicant, name of primary organizational unit which will undertake the assistance activity, complete address of the applicant, and name and telephone number of the person to contact on matters related to this application.
6. Enter Employer Identification Number (EIN) as assigned by the Internal Revenue Service.

7. Enter the appropriate letter in the space provided.

8. Check appropriate box and enter appropriate letter(s) in the space(s) provided.

— "New" means a new assistance award.

— "Continuation" means an extension for an additional funding/budget period for a project with a projected completion date.

— "Revision" means any change in the Federal Government's financial obligation or contingent liability from an existing obligation.

9. Name of Federal agency from which assistance is being requested with this application.

10. Use the Catalog of Federal Domestic Assistance number and title of the program under which assistance is requested.

11. Enter a brief descriptive title of the project. If more than one program is involved, you should append an explanation on a separate sheet. If appropriate (e.g., construction or real property projects), attach a map showing project location. For preapplications, use a separate sheet to provide a summary description of this project.

12. List only the largest political entities affected (e.g., State, counties, cities).

13. Self-explanatory.

14. List the applicant's Congressional District and any District(s) affected by the program or project.

15. Amount requested or to be contributed during the first funding/budget period by each contributor. Value of in-kind contributions should be included on appropriate lines as applicable. If the action will result in a dollar change to an existing award, indicate only the amount of the change. For decreases, enclose the amounts in parentheses. If both basic and supplemental amounts are included, show breakdown on an attached sheet. For multiple program funding, use totals and show breakdown using same categories as item 15.

16. Applicants should contact the State Single Point of Contact (SPOC) for Federal Executive Order 12372 to determine whether the application is subject to the State intergovernmental review process.

17. This question applies to the applicant organization, not the person who signs as the authorized representative. Categories of debt include delinquent audit disallowances, loans and taxes.

18. To be signed by the authorized representative of the applicant. A copy of the governing body's authorization for you to sign this application as official representative must be on file in the applicant's office. (Certain Federal agencies may require that this authorization be submitted as part of the application.)

BILLING CODE 4130-01-M

Attachment B

BUDGET INFORMATION — Non-Construction Programs

OMB Approval No. 0348-0044

SECTION A — BUDGET SUMMARY						
Grant Program Function or Activity (a)	Catalog of Federal Domestic Assistance Number (b)	Estimated Unobligated Funds		New or Revised Budget		Total (g)
		Federal (c)	Non-Federal (d)	Federal (e)	Non-Federal (f)	
1.		\$	\$	\$	\$	\$
2.						
3.						
4.						
5. TOTALS		\$	\$	\$	\$	\$
SECTION B — BUDGET CATEGORIES						
Object Class Categories	GRANT PROGRAM, FUNCTION OR ACTIVITY					Total (5)
	(1)	(2)	(3)	(4)	(5)	
a. Personnel	\$	\$	\$	\$	\$	\$
b. Fringe Benefits						
c. Travel						
d. Equipment						
e. Supplies						
f. Contractual						
g. Construction						
h. Other						
i. Total Direct Charges (sum of 6a - 6h)						
j. Indirect Charges						
k. TOTALS (sum of 6i and 6j)	\$	\$	\$	\$	\$	\$
7. Program Income	\$	\$	\$	\$	\$	\$

Standard Form 424A (4-88)

SECTION C - NON-FEDERAL RESOURCES					
(a) Grant Program	(b) Applicant	(c) State	(d) Other Sources	(e) TOTALS	
8.	\$	\$	\$	\$	
9.					
10.					
11.					
12. TOTALS (sum of lines 8 and 11)	\$	\$	\$	\$	

SECTION D - FORECASTED CASH NEEDS				
	Total for 1st Year	FUTURE FUNDING PERIODS (Years)		
		1st Quarter	2nd Quarter	3rd Quarter
13. Federal	\$	\$	\$	\$
14. NonFederal				
15. TOTAL (sum of lines 13 and 14)	\$	\$	\$	\$

SECTION E - BUDGET ESTIMATES OF FEDERAL FUNDS NEEDED FOR BALANCE OF THE PROJECT				
(a) Grant Program	FUTURE FUNDING PERIODS (Years)			
	(b) First	(c) Second	(d) Third	(e) Fourth
16.	\$	\$	\$	\$
17.				
18.				
19.				
20. TOTALS (sum of lines 16-19)	\$	\$	\$	\$

SECTION F - OTHER BUDGET INFORMATION (Attach additional Sheets if Necessary)	
21. Direct Charges:	22. Indirect Charges:
23. Remarks	

INSTRUCTIONS FOR THE SF-424A

General Instructions

This form is designed so that application can be made for funds from one or more grant programs. In preparing the budget, adhere to any existing Federal grantor agency guidelines which prescribe how and whether budgeted amounts should be separately shown for different functions or activities within the program. For some programs, grantor agencies may require budgets to be separately shown by function or activity. For other programs, grantor agencies may require a breakdown by function or activity. Sections A, B, C, and D should include budget estimates for the whole project except when applying for assistance which requires Federal authorization in annual or other funding period increments. In the latter case, Sections A, B, C, and D should provide the budget for the first budget period (usually a year) and Section E should present the need for Federal assistance in the subsequent budget periods. All applications should contain a breakdown by the object class categories shown in Lines a-k of Section B.

Section A. Budget Summary

Lines 1-4, Columns (a) and (b).

For applications pertaining to a *single* Federal grant program (Federal Domestic Assistance Catalog number) and *not* requiring a functional or activity breakdown, enter on Line 1 under Column (a) the catalog program title and the catalog number in Column (b).

For applications pertaining to a *single* program requiring budget amounts by multiple functions or activities, enter the name of each activity or function on each line in Column (a), and enter the catalog number in Column (b). For applications pertaining to multiple programs where none of the programs require a breakdown by function or activity, enter the catalog program title on each line in Column (a) and the respective catalog number on each line in Column (b).

For applications pertaining to *multiple* programs where one or more programs require a breakdown by function or activity, prepare a separate sheet for each program requiring the breakdown. Additional sheets should be used when one form does not provide adequate space for all breakdown of data required. However, when more than one sheet is used, the first page should provide the summary totals by programs.

Lines 1-4, Columns (c) through (g).

For *new applications*, leave Columns (c) and (d) blank. For each line entry in Columns (a) and (b), enter in Columns (e), (f), and (g) the appropriate amounts of funds needed to support the project for the first funding period (usually a year).

Lines 1-4, Columns (c) through (g).

(continued)
For *continuing grant program applications*, submit these forms before the end of each funding period as required by the grantor agency. Enter in Columns (c) and (d) the estimated amounts of funds which will remain unobligated at the end of the grant funding period only if the Federal grantor agency instructions provide for this. Otherwise, leave these columns blank. Enter

in columns (e) and (f) the amounts of funds needed for the upcoming period. The amount(s) in Column (g) should be the sum of amounts in Columns (e) and (f).

For *supplemental grants and changes* to existing grants, do not use Columns (c) and (d). Enter in Column (e) the amount of the increase or decrease of Federal funds and enter in Column (f) the amount of the increase or decrease of non-Federal funds. In Column (g) enter the new total budgeted amount (Federal and non-Federal) which includes the total previous authorized budgeted amounts plus or minus, as appropriate, the amounts shown in Columns (e) and (f). The amount(s) in Column (g) should not equal the sum of amounts in Columns (e) and (f).

Line 5—Show the totals for all columns used.

Section B. Budget Categories

In the column headings (1) through (4), enter the titles of the same programs, functions, and activities shown on Lines 1-4, Column (a), Section A. When additional sheets are prepared for Section A, provide similar column headings on each sheet. For each program, function or activity, fill in the total requirements for funds (both Federal and non-Federal) by object class categories.

Lines 6a-i—Show the totals of Lines 6a to 6h in each column.

Line 6j—Show the amount of indirect cost.
Line 6k—Enter the total of amounts on Lines 6i and 6j. For all applications for new grants and continuation grants the total amount in column (5), Line 6k, should be the same as the total amount shown in Section A, Column (g), Line 5. For supplemental grants and changes to grants, the total amount of the increase or decrease as shown in Columns (1)-(4), Line 6k should be the same as the sum of the amounts in Section A, Columns (e) and (f) on Line 5.

Line 7—Enter the estimated amount of income, if any, expected to be generated from this project. Do not add or subtract this amount from the total project amount. Show under the program narrative statement the nature and source of income. The estimated amount of program income may be considered by the federal grantor agency in determining the total amount of the grant.

Section C. Non-Federal-Resources

Lines 8-11—Enter amounts of non-Federal resources that will be used on the grant. If in-kind contributions are included, provide a brief explanation on a separate sheet.

Column (a)—Enter the program titles identical to Column (a), Section A. A breakdown by function or activity is not necessary.

Column (b)—Enter the contribution to be made by the applicant.

Column (c)—Enter the amount of the State's cash and in-kind contribution if the applicant is not a State or State agency. Applicants which are a State or State agencies should leave this column blank.

Column (d)—Enter the amount of cash and in-kind contributions to be made from all other sources.

Column (e)—Enter totals of Columns (b), (c), and (d).

Line 12—Enter the total for each of Columns (b)-(e). The amount in Column (e) should be equal to the amount on Line 5, Column (f), Section A.

Section D. Forecasted Cash Needs

Line 13—Enter the amount of cash needed by quarter from the grantor agency during the first year.

Line 14—Enter the amount of cash from all other sources needed by quarter during the first year.

Line 15—Enter the totals of amounts on Lines 13 and 14.

Section E. Budget Estimates of Federal Funds Needed for Balance of the Project

Line 16-19—Enter in Column (a) the same grant program titles shown in Column (a), Section A. A breakdown by function or activity is not necessary. For new applications and continuation grant applications, enter in the proper columns amounts of Federal funds which will be needed to complete the program or project over the succeeding funding periods (usually in years). This section need not be completed for revisions (amendments, changes, or supplements) to funds for the current year of existing grants.

If more than four lines are needed to list the program titles, submit additional schedules as necessary.

Line 20—Enter the total for each of the Columns (b)-(e). When additional schedules are prepared for this Section, annotate accordingly and show the overall totals on this line.

Section F. Other Budget Information

Line 12—Use this space to explain amounts for individual direct object-class cost categories that may appear to be out of the ordinary or to explain the details as required by the Federal grantor agency.

Line 22—Enter the type of indirect rate (provisional, predetermined, final or fixed) that will be in effect during the funding period, the estimated amount of the base to which the rate is applied, and the total indirect expense.

Line 23—Provide any other explanations or comments deemed necessary.

Attachment C

Assurances—Non-Construction Programs

Note: Certain of these assurances may not be applicable to your project or program. If you have questions, please contact the awarding agency. Further, certain Federal awarding agencies may require applicants to certify to additional assurances. If such is the case, you will be notified.

As the duly authorized representative of the applicant I certify that the applicant:

1. Has the legal authority to apply for Federal assistance, and the institutional, managerial and financial capability (including funds sufficient to pay the non-Federal share of project costs) to ensure proper planning, management and completion of the project described in this application.

2. Will give the awarding agency, the Comptroller General of the United States, and if appropriate, the State, through any

authorized representative, access to and the right to examine all records, books, papers, or documents related to the award; and will establish a proper accounting system in accordance with generally accepted accounting standards or agency directives.

3. Will establish safeguards to prohibit employees from using their positions for a purpose that constitutes or presents the appearance of personal or organizational conflict of interest, or personal gain.

4. Will initiate and complete the work within the applicable time frame after receipt of approval of the awarding agency.

5. Will comply with the Intergovernmental Personnel Act of 1970 (42 U.S.C. 4728-4763) relating to prescribed standards for merit systems for programs funded under one of the nineteen statutes or regulations specified in Appendix A of OPM's Standards for a Merit System of Personnel Administration (5 C.F.R. 900, Subpart F).

6. Will comply with all Federal statutes relating to nondiscrimination. These include but are not limited to: (a) Title VI of the Civil Rights Act of 1964 (Pub. L. 88-352) which prohibits discrimination on the basis of race, color or national origin; (b) Title IX of the Education Amendments of 1972, as amended (20 U.S.C. 1681-1683, and 1685-1686), which prohibits discrimination on the basis of sex; (c) Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. § 794), which prohibits discrimination on the basis of handicaps; (d) the Age Discrimination Act of 1975, as amended (42 U.S.C. 6101-6107), which prohibits discrimination on the basis of age; (e) the Drug Abuse Office and Treatment Act of 1972 (Pub. L. 92-255), as amended, relating to nondiscrimination on the basis of drug abuse; (f) the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (Pub. L. 91-616), as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism; (g) 523 and 527 of the Public Health Service Act of 1912 (42 U.S.C. 290 dd-3 and 290 ee-3), as amended, relating to confidentiality of alcohol and drug abuse patient records; (h) Title VIII of the Civil Rights Act of 1968 (42 U.S.C. 3601 *et seq.*), as amended, relating to nondiscrimination in the sale, rental or financing of housing; (i) any other nondiscrimination provisions in the specific statute(s) under which application for Federal assistance is being made; and (j)

the requirements of any other nondiscrimination statute(s) which may apply to the application.

7. Will comply, or has already complied, with the requirements of Titles II and III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (Pub. L. 91-646) which provide for fair and equitable treatment of persons displaced or whose property is acquired as a result of Federal or federally assisted programs. These requirements apply to all interest in real property acquired for project purposes regardless of Federal participation in purchases.

8. Will comply with the provisions of the Hatch Act (5 U.S.C. 1501-1508 and 7324-7328) which limit the political activities of employees whose principal employment activities are funded in whole or in part with Federal funds.

9. Will comply, as applicable, with the provisions of the Davis-Bacon Act (40 U.S.C. 276a to 276a-7), the Copeland Act (40 U.S.C. 276c and 18 U.S.C. 874), and the Contract Work Hours and Safety Standards Act (40 U.S.C. 327-333), regarding labor standards for federally assisted construction subagreements.

10. Will comply, if applicable, with flood insurance purchase requirements of Section 102(a) of the Flood Disaster Protection Act of 1973 (P.L. 93-234) which requires recipients in a special flood hazard area to participate in the program and to purchase flood insurance if the total cost of insurable construction and acquisition is \$10,000 or more.

11. Will comply with environmental standards which may be prescribed pursuant to the following: (a) institution of environmental quality control measures under the National Environmental Policy Act of 1969 (P.L. 91-190) and Executive Order (EO) 11514; (b) notification of violating facilities pursuant to EO 11738; (c) protection of wetlands pursuant to EO 11990; (d) evaluation of flood hazards in floodplains in accordance with EO 11988; (e) assurance of project consistency with the approved State management program developed under the Coastal Zone Management Act of 1972 (16 U.S.C. §§ 1451 *et seq.*); (f) conformity of Federal actions to State (Clear Air) Implementation Plans under Section 176(c) of the Clear Air Act of 1955, as amended (42 U.S.C. § 7401 *et seq.*); (g) protection of

underground sources of drinking water under the Safe Drinking Water Act of 1974, as amended (P.L. 93-523); and (h) protection of endangered species under the Endangered Species Act of 1973, as amended (P.L. 93-205).

12. Will comply with the Wild and Scenic Rivers Act of 1968 (16 U.S.C. §§ 1271 *et seq.*) related to protecting components or potential components of the national wild and scenic river system.

13. Will assist the awarding agency in assuring compliance with Section 106 of the National Historic Preservation Act of 1966, as amended (16 U.S.C. 470), EO 11593 (identification and protection of historic properties), and the Archaeological and Historic Preservation Act of 1974 (16 U.S.C. 469a-1 *et seq.*).

14. Will comply with P.L. 93-348 regarding the protection of human subjects involved in research, development, and related activities supported by this award of assistance.

15. Will comply with the Laboratory Animal Welfare Act of 1966 (P.L. 89-544, as amended, 7 U.S.C. 2131 *et seq.*) pertaining to the care, handling, and treatment of warm blooded animals held for research, teaching, or other activities supported by this award of assistance.

16. Will comply with the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. §§ 4801 *et seq.*) which prohibits the use of lead based paint in construction or rehabilitation of residence structures.

17. Will cause to be performed the required financial and compliance audits in accordance with the Single Audit Act of 1984.

18. Will comply with all applicable requirements of all other Federal laws, executive orders, regulations and policies governing this program.

Signature of Authorized Certifying Official

Title

Applicant Organization

Date Submitted

BILLING CODE 4130-01-M

Attachment D

U.S. Department of Health and Human Services
Certification Regarding Drug-Free Workplace Requirements
Grantees Other Than Individuals

By signing and/or submitting this application or grant agreement, the grantee is providing the certification set out below.

This certification is required by regulations implementing the Drug-Free Workplace Act of 1988, 45 CFR Part 76, Subpart F. The regulations, published in the May 25, 1990 Federal Register, require certification by grantees that they will maintain a drug-free workplace. The certification set out below is a material representation of fact upon which reliance will be placed when the Department of Health and Human Services (HHS) determines to award the grant. If it is later determined that the grantee knowingly rendered a false certification, or otherwise violates the requirements of the Drug-Free Workplace Act, HHS, in addition to any other remedies available to the Federal Government, may take action authorized under the Drug-Free Workplace Act. False certification or violation of the certification shall be grounds for suspension of payments, suspension or termination of grants, or governmentwide suspension or debarment.

Workplaces under grants, for grantees other than individuals, need not be identified on the certification. If known, they may be identified in the grant application. If the grantee does not identify the workplaces at the time of application, or upon award, if there is no application, the grantee must keep the identity of the workplace(s) on file in its office and make the information available for Federal inspection. Failure to identify all known workplaces constitutes a violation of the grantee's drug-free workplace requirements.

Workplace identifications must include the actual address of buildings (or parts of buildings) or other sites where work under the grant takes place. Categorical descriptions may be used (e.g., all vehicles of a mass transit authority or State highway department while in operation, State employees in each local unemployment office, performers in concert halls or radio studios.)

If the workplace identified to HHS changes during the performance of the grant, the grantee shall inform the agency of the change(s), if it previously identified the workplaces in question (see above).

Definitions of terms in the Nonprocurement Suspension and Debarment common rule and Drug-Free Workplace common rule apply to this certification. Grantees' attention is called, in particular, to the following definitions from these rules:

"Controlled substance" means a controlled substance in Schedules I through V of the Controlled Substances Act (21 USC 812) and as further defined by regulation (21 CFR 1308.11 through 1308.15).

"Conviction" means a finding of guilt (including a plea of nolo contendere) or imposition of sentence, or both, by any judicial body charged with the responsibility to determine violations of the Federal or State criminal drug statutes;

"Criminal drug statute" means a Federal or non-Federal criminal statute involving the manufacture, distribution, dispensing, use, or possession of any controlled substance;

"Employee" means the employee of a grantee directly engaged in the performance of work under a grant, including: (i) All "direct charge" employees; (ii) all "indirect charge" employees unless their impact or involvement is insignificant to the performance of the grant; and, (iii) temporary personnel and consultants who are directly engaged in the performance of work under the grant and who are on the grantee's payroll. This definition does not include workers not on the payroll of the grantee (e.g., volunteers, even if used to meet a matching requirement; consultants or independent contractors not on the grantee's payroll; or employees of subrecipients or subcontractors in covered workplaces).

The grantee certifies that it will or will continue to provide a drug-free workplace by:

(a) Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession or use of a controlled substance is prohibited in the grantee's workplace and specifying the actions that will be taken against employees for violation of such prohibition;

(b) Establishing an ongoing drug-free awareness program to inform employees about:

(1) The dangers of drug abuse in the workplace; (2) The grantee's policy of maintaining a drug-free workplace; (3) Any available drug counseling, rehabilitation, and employee assistance programs; and, (4) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;

(c) Making it a requirement that each employee to be engaged in the performance of the grant be given a copy of the statement required by paragraph (a);

(d) Notifying the employee in the statement required by paragraph (a) that, as a condition of employment under the grant, the employee will:

(1) Abide by the terms of the statement; and, (2) Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five calendar days after such conviction;

(e) Notifying the agency in writing, within ten calendar days after receiving notice under subparagraph (d)(2) from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position title, to every grant officer or other designee on whose grant activity the convicted employee was working, unless the Federal agency has designated a central point for the receipt of such notices. Notice shall include the identification number(s) of each affected grant;

(f) Taking one of the following actions, within 30 calendar days of receiving notice under subparagraph (d)(2), with respect to any employee who is so convicted:

(1) Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; or, (2) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency;

(g) Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (a), (b), (c), (d), (e) and (f).

The grantee may insert in the space provided below the site(s) for the performance of work done in connection with the specific grant (use attachments, if needed):

Place of Performance (Street address, City, County, State, ZIP Code) _____

Check ☐ if there are workplaces on file that are not identified here.

Sections 76.630(c) and (d)(2) and 76.635(a)(1) and (b) provide that a Federal agency may designate a central receipt point for STATE-WIDE AND STATE AGENCY-WIDE certifications, and for notification of criminal drug convictions. For the Department of Health and Human Services, the central receipt point is: Division of Grants Management and Oversight, Office of Management and Acquisition, Department of Health and Human Services, Room 517-D, 200 Independence Avenue, S.W., Washington, D.C. 20201.

DGMO Form#2 Revised May 1990

Attachment E**Certification Regarding Debarment, Suspension, and Other Responsibility Matters—Primary Covered Transactions**

By signing and submitting this proposal, the applicant, defined as the primary participant in accordance with 45 CFR part 76, certifies to the best of its knowledge and belief that it and its principals:

(a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal Department or agency;

(b) Have not within a 3-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission or fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

(c) Are not presently indicted or otherwise criminally or civilly charged by a governmental entity (Federal, State, or local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and

(d) Have not within a 3-year period preceding this application/proposal had one or more public transactions (Federal, State, or local) terminated for cause or default.

The inability of a person to provide the certification required above will not necessarily result in denial of participation in this covered transaction. If necessary, the prospective participant shall submit an explanation of why it cannot provide the certification. The certification or explanation will be considered in connection with the Department of Health and Human Services (HHS) determination whether to enter into this transaction. However, failure of the prospective primary participant to furnish a certification or an explanation shall disqualify such person from participation in this transaction.

The prospective primary participant agrees that by submitting this proposal, it will include the clause entitled "Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion—Lower Tier Covered Transaction," provided below without modification in all lower tier covered

transactions and in all solicitations for lower tier covered transactions.

Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion—Lower Tier Covered Transactions (To Be Supplied to Lower Tier Participants)

By signing and submitting this lower tier proposal, the prospective lower tier participant, as defined in 45 CFR part 76, certifies to the best of its knowledge and belief that it and its principals:

(a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any federal department or agency.

(b) Where the prospective lower tier participant is unable to certify to any of the above, such prospective participant shall attach an explanation to this approach.

The prospective lower tier participant further agrees by submitting this proposal that it will include this clause entitled "Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion—Lower Tier Covered Transactions." "Without modification in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

Attachment F**Certification Regarding Lobbying****Certification for Contracts, Grants, Loans, and Cooperative Agreements**

The undersigned certifies, to the best of his or her knowledge and belief, that:

(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee and agency, a Member of Congress, an officer or employee of Congress, or an

employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form—LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

(3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

Statement for Loan Guarantees and Loan Insurance

The undersigned states, to the best of his or her knowledge and belief, that:

If any funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this commitment providing for the United States to insure or guarantee a loan, the undersigned shall complete and submit Standard Form—LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

Submission of this statement is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required statement shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

Signature

Title

Organization

Date

BILLING CODE 4130-01-M

DISCLOSURE OF LOBBYING ACTIVITIESApproved by OMB
0348-0046Complete this form to disclose lobbying activities pursuant to 31 U.S.C. 1352
(See reverse for public burden disclosure.)

1. Type of Federal Action: ☐ a. contract ☐ b. grant ☐ c. cooperative agreement ☐ d. loan ☐ e. loan guarantee ☐ f. loan insurance	2. Status of Federal Action: ☐ a. bid/offer/application ☐ b. initial award ☐ c. post-award	3. Report Type: ☐ a. initial filing ☐ b. material change For Material Change Only: year _____ quarter _____ date of last report _____
4. Name and Address of Reporting Entity: ☐ Prime ☐ Subawardee Tier _____, if known: Congressional District, if known: _____	5. If Reporting Entity in No. 4 is Subawardee, Enter Name and Address of Prime: Congressional District, if known: _____	
6. Federal Department/Agency:	7. Federal Program Name/Description: CFDA Number, if applicable: _____	
8. Federal Action Number, if known:	9. Award Amount, if known: \$ _____	
10. a. Name and Address of Lobbying Entity (if individual, last name, first name, MI): 		
b. Individuals Performing Services (including address if different from No. 10a) (last name, first name, MI): 		
<i>(attach Continuation Sheet(s) SF-LLL-A, if necessary)</i>		
11. Amount of Payment (check all that apply): \$ _____ ☐ actual ☐ planned	13. Type of Payment (check all that apply): ☐ a. retainer ☐ b. one-time fee ☐ c. commission ☐ d. contingent fee ☐ e. deferred ☐ f. other; specify: _____	
12. Form of Payment (check all that apply): ☐ a. cash ☐ b. in-kind; specify: nature _____ value _____		
14. Brief Description of Services Performed or to be Performed and Date(s) of Service, including officer(s), employee(s), or Member(s) contacted, for Payment Indicated in Item 11: 		
<i>(attach Continuation Sheet(s) SF-LLL-A, if necessary)</i>		
15. Continuation Sheet(s) SF-LLL-A attached: ☐ Yes ☐ No		
16. Information requested through this form is authorized by title 31 U.S.C. section 1352. This disclosure of lobbying activities is a material representation of fact upon which reliance was placed by the tier above when this transaction was made or entered into. This disclosure is required pursuant to 31 U.S.C. 1352. This information will be reported to the Congress semi-annually and will be available for public inspection. Any person who fails to file the required disclosure shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.	Signature: _____ Print Name: _____ Title: _____ Telephone No.: _____ Date: _____	
Federal Use Only:		Authorized for Local Reproduction Standard Form - LLL

Instructions for Completion of SF-LLL, Disclosure of Lobbying Activities

This disclosure form shall be completed by the reporting entity, whether subawardee or prime Federal recipient, at the initiation or receipt of a covered Federal action, or a material change to a previous filing, pursuant to title 31 U.S.C. section 1352. The filing of a form is required for each payment or agreement to make payment to any lobbying entity for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with a covered Federal action. Use the SF-LLL-A Continuation Sheet for additional information if the space on the form is inadequate. Complete all items that apply for both the initial filing and material change report. Refer to the implementing guidance published by the Office of Management and Budget for additional information.

1. Identify the type of covered Federal action for which lobbying activity is and/or has been secured to influence the outcome of a covered Federal action.

2. Identify the status of the covered Federal action.

3. Identify the appropriate classification of this report. If this is a followup report caused by a material change to the information previously reported, enter the year and quarter in which the change occurred. Enter the date of the last previously submitted report by this reporting entity for this covered Federal action.

4. Enter the full name, address, city, state and zip code of the reporting entity. Include Congressional District, if known. Check the appropriate classification of the reporting entity that designates if it is, or expects to be, a prime or subaward recipient. Identify the tier of the subawardee, e.g., the first subawardee of the prime is the 1st tier. Subawards include but are not limited to subcontracts, subgrants and contract awards under grants.

5. If the organization filing the report in item 4 checks "Subawardee", then enter the full name, address, city, state and zip code of the prime Federal recipient. Include Congressional District, if known.

6. Enter the name of the Federal agency making the award or loan commitment. Include at least one organizational level below agency name, if known. For example, Department of Transportation, United States Coast Guard.

7. Enter the Federal program name or description for the covered Federal action (item 1). If known, enter the full Catalog of Federal Domestic Assistance (CFDA) number for grants, cooperative agreements, loans, and loan commitments.

8. Enter the most appropriate Federal identifying number available for the Federal action identified in item 1 (e.g., Request for Proposal (RFP) number; Invitation for Bid (IFB) number; grant announcement number; the contract, grant, or loan award number; the application/proposal control number assigned by the Federal agency). Include prefixes, e.g., "RFP-DE-90-001."

9. For a covered Federal action where there has been an award or loan commitment by

the Federal agency, enter the Federal amount of the award/loan commitment for the prime entity identified in item 4 or 5.

10. (a) Enter the full name, address, city, state and zip code of the lobbying entity engaged by the reporting entity identified in item 4 to influence the covered Federal action.

(b) Enter the full names of the individual(s) performing services, and include full address if different from 10 (a). Enter Last Name, First Name, and Middle Initial (MI).

11. Enter the amount of compensation paid or reasonably expected to be paid by the reporting entity (item 4) to the lobbying entity (item 10). Indicate whether the payment has been made (actual) or will be made (planned). Check all boxes that apply. If this is a material change report, enter the cumulative amount of payment made or planned to be made.

12. Check the appropriate box(es). Check all boxes that apply. If payment is made through an in-kind contribution, specify the nature and value of the in-kind payment.

13. Check the appropriate box(es). Check all boxes that apply. If other, specify nature.

14. Provide a specific and detailed description of the services that the lobbyist has performed, or will be expected to perform, and the date(s) of any services rendered. Include all preparatory and related activity, not just time spent in actual contact with Federal officials. Identify the Federal official(s) or employee(s) contacted or the officer(s), employee(s), or Member(s) of Congress that were contacted.

15. Check whether or not a SF-LLL-A Continuation Sheet(s) is attached.

16. The certifying official shall sign and date the form, print his/her name, title, and telephone number.

Public reporting burden for this collection of information is estimated to average 30 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348-0046), Washington, D.C. 20503.

Attachment G

STATE SINGLE POINTS OF CONTACT

Alabama

Mrs. Moncell Thornell, State Single Point of Contact, Alabama Department of Economic & Community Affairs, 3465 Norman Bridge Road, Post Office Box 250347, Montgomery, Alabama 36125-0347, Telephone (205) 284-8905

Arizona

Ms. Janice Dunn, Arizona State Clearinghouse, 3800 N. Central Avenue, Fourteenth Floor, Phoenix, Arizona 85012, Telephone (602) 280-1315

Arkansas

Mr. Joseph Gillespie, Manager, State Clearinghouse, Office of Intergovernmental

Service, Department of Finance and Administration, P.O. Box 3278, Little Rock, Arkansas 72203, Telephone (501) 371-1074

California

Glenn Stober, Grants Coordinator, Office of Planning and Research, 1400 Tenth Street, Sacramento, California 95814, Telephone (916) 323-7480

Colorado

State Single Point of Contact, State Clearinghouse, Division of Local Government, 1313 Sherman Street, Room 520, Denver, Colorado 80203, Telephone (303) 866-2156

Connecticut

Under Secretary, Attn: Intergovernmental Review coordinator, Comprehensive Planning Division, Office of Policy and Management, 80 Washington Street, Hartford, Connecticut 06106-4459, Telephone (203) 566-3410

Delaware

Francine Booth, State Single Point of Contact, Executive Department, Thomas Collins Building, Dover, Delaware 19903, Telephone (302) 736-3328

District of Columbia

Lovetta Davis, State Single Point of Contact, Executive Office of the Mayor, Office of Intergovernmental Relations, Room 416, District Building, 1350 Pennsylvania Avenue, NW., Washington, DC 20004, Telephone (202) 727-9111

Florida

Karen McFarland, Director, Florida State Clearinghouse, Executive Office of the Governor, Office of Planning and Budgeting, The Capitol, Tallahassee, Florida 32399-0001, Telephone (904) 488-8114

Georgia

Charles H. Badger, Administrator, Georgia State Clearinghouse, 270 Washington Street, SW., Atlanta, Georgia 30334, Telephone (404) 656-3855

Hawaii

Mr. Harold S. Masumoto, Acting Director, Office of State Planning, Department of Planning and Economic Development, Office of the Governor, State Capitol—Room 406, Honolulu, Hawaii 96813, Telephone (808) 548-5803, FAX (808) 548-8172

Illinois

Tom Berkshire, State Single Point of Contact, Office of the Governor, State of Illinois, Springfield, Illinois 62706, Telephone (217) 782-8639

Indiana

Frank Sullivan, Budget Director, State Budget Agency, 212 State House, Indianapolis, Indiana 46204, Telephone (317) 232-5610

Iowa

Steven R. McCann, Division for Community Progress, Iowa Department of Economic Development, 200 East Grand Avenue, Des

Moines, Iowa 50309, Telephone (515) 281-3725

Kentucky

Debbie Anglin, State Single Point of Contact, Kentucky State Clearinghouse, 2nd Floor Capital Plaza Tower, Frankfort, Kentucky 40601, Telephone (502) 564-2382

Maine

State Single Point of Contact, Attn: Joyce Benson, State Planning Office, State House Station #38, Augusta, Maine 04333, Telephone (207) 289-3261

Maryland

Mary Abrams, Chief, Maryland State Clearinghouse, Department of State Planning, 301 West Preston Street, Baltimore, Maryland 21201-2365, Telephone (301) 255-4490

Massachusetts

State Single Point of Contact, Attn: Beverly Boyle, Executive Office of Communities & Development, 100 Cambridge Street, Room 1803, Boston, Massachusetts 02202, Telephone (617) 727-7001

Michigan

Milton O. Waters, Director of Operations, Michigan Neighborhood Builders Alliance, Michigan Department of Commerce, Telephone (517) 373-7111

Please direct correspondence to: Manager, Federal Project Review, Michigan Department of Commerce, Michigan Neighborhood Builders Alliance, P.O. Box 30242, Lansing, Michigan 48909, Telephone (517) 373-6223.

Mississippi

Cathy Mallette, Clearinghouse Officer, Department of Finance and Administration, Office of Policy Development, 421 West Pascagoula Street, Jackson, Mississippi 39203, Telephone (601) 960-4280

Missouri

Lois Pohl, Federal Assistance Clearinghouse, Office of Administration, Division of General Services, P.O. Box 809, Room 430, Truman Building, Jefferson City, Missouri 65102, Telephone (314) 751-4834

Montana

Deborah Stanton, State Single Point of Contact, Intergovernmental Review Clearinghouse, c/o Office of Budget and Program Planning, Capitol Station, Room 202—State Capitol, Helena, Montana 59620, Telephone (406) 444-5522

Nevada

Department of Administration, State Clearinghouse, Capitol Complex, Carson City, Nevada 89710, ATTN: John B. Walker, Clearinghouse Coordinator

New Hampshire

Jeffery H. Taylor, Director, New Hampshire Office of State Planning, Attn: Intergovernmental Review Process/James E. Bieber, 2½ Beacon Street, Concord, New Hampshire 03301, Telephone (603) 271-2155

New Jersey

Barry Skokowski, Director, Division of Local Government Services, Department of Community Affairs, CN 803, Trenton, New Jersey 08625-0803, Telephone (609) 292-6613

Please direct correspondence and questions to: Nelson S. Silver, State Review Process, Division of Local Government Services, CN 803, Trenton, New Jersey 08625-0803, Telephone (609) 292-9025.

New Mexico

Aurelia M. Sandoval, State Budget Division, DFA, Room 190, Bataan Memorial Building, Santa Fe, New Mexico 87503, Telephone (505) 827-3640, FAX (505) 827-3006

New York

New York State Clearinghouse, Division of the Budget, State Capitol, Albany, New York 12224, Telephone (518) 474-1605

North Carolina

Mrs. Chrys Baggett, Director, Intergovernmental Relations, N.C. Department of Administration, 116 W. Jones Street, Raleigh, North Carolina 27611, Telephone (919) 733-0499

North Dakota

William Robinson, State Single Point of Contact, Office of Intergovernmental Affairs, Office of Management and Budget, 14th Floor, State Capitol, Bismarck, North Dakota 58505, Telephone (701) 224-2094

Ohio

Larry Weaver, State Single Point of Contact, State/Federal Funds Coordinator, State Clearinghouse, Office of Budget and Management, 30 East Broad Street, 34th Floor, Columbus, Ohio 43266-0411, Telephone (614) 466-0698

Oklahoma

Don Strain, State Single Point of Contact, Oklahoma Department of Commerce, Office of Federal Assistance Management, 6601 Broadway Extension, Oklahoma City, Oklahoma 73116, Telephone (405) 843-9770

Rhode Island

Daniel W. Varin, Associate Director, Statewide Planning Program, Department of Administration, Division of Planning, 265 Melrose Street, Providence, Rhode Island 02907, Telephone (401) 277-2656

Please direct correspondence and questions to: Review Coordinator, Office of Strategic Planning.

South Carolina

Danny L. Cromer, State Single Point of Contact, Grant Service, Office of the Governor, 1205 Pendleton Street, Room 477, Columbia, South Carolina 29201, Telephone (803) 734-0493

South Dakota

Susan Comer, State Clearinghouse Coordinator, Office of the Governor, 500 East Capitol, Pierre, South Dakota 57501, Telephone (605) 773-3212

Tennessee

Charles Brown, State Single Point of Contact, State Planning Office, 500 Charlotte Avenue, 309 John Sevier Building, Nashville, Tennessee 37219, Telephone (615) 741-1676

Texas

Tom Adams, Governor's Office of Budget and Planning, P.O. Box 12428, Austin, Texas 78711, Telephone (512) 463-1778

Utah

Utah State Clearinghouse, Office of Planning and Budget, ATTN: Carolyn Wright, Room 116 State Capitol, Salt Lake City, Utah 84114, Telephone (801) 538-1535

Vermont

Bernard D. Johnson, Assistant Director, Office of Policy Research & Coordination, Pavilion Office Building, 109 State Street, Montpelier, Vermont 05602, Telephone (802) 828-3326

Washington

Marilyn Dawson, Washington Intergovernmental Review Process, Department of Community Development, 9th and Columbia Building, Mail Stop GH-51, Olympia, Washington, 98504-4151, Telephone (206) 753-4978

West Virginia

Fred Cutlip, Director, Community Development Division, Governor's Office of Community and Industrial Development, Building #6, Room 553, Charleston, West Virginia 25305, Telephone (304) 348-4010

Wisconsin

William C. Carey, Federal/State Relations, IGA Relations, 101 South Webster Street, P.O. Box 7864, Milwaukee, Wisconsin 53707, Telephone (608) 266-1741

Please direct correspondence and questions to: William C. Carey, Section Chief, Federal/State Relations Office, Wisconsin Department of Administration, (608) 266-0267.

Wyoming

Ann Redman, State Single Point of Contact, Wyoming State Clearinghouse, State Planning Coordinator's Office, Capitol Building, Cheyenne, Wyoming 82002, Telephone (307) 777-7574

Territories

Guam

Michael J. Reidy, Director, Bureau of Budget and Management Research, Office of the Governor, P.O. Box 2950, Agaña, Guam 96910, Telephone (671) 472-2285

Northern Mariana Islands

State Single Point of Contact, Planning and Budget Office, Office of the Governor, Saipan, CM, Northern Mariana Islands 96950

Puerto Rico

Patria Custodio/Israel Soto Marrero, Chairman/Director, Puerto Rico Planning Board, Minillas Government Center, P.O.

Box 41119, San Juan, Puerto Rico 00940-9985, Telephone (809) 727-4444

Virgin Islands

Jose L. George, Director, Office of Management and Budget, No. 32 & 33 Kongens Gade, Charlotte Amalie, V.I. 00802, Telephone (809) 774-0750

For OMB Purposes Only File originated: 9-2-88 "Contacts".

Attachment H

The following DHHS regulations apply to all applicants/grantees under the Training and Technical Assistance Program

Title 45 of the *Code of Federal Regulations*:

Part 16—Procedures of the Departmental Grant Appeals Board

Part 74—Administration of Grants (non-governmental)

Part 74—Administration of Grants (state and local governments and Indian Tribal affiliates):

Sections

74.62(a) Non-Federal Audits

74.173 Hospitals

74.174(b) Other Nonprofit Organizations

74.304 Final Decisions in Disputes

74.710 Real Property, Equipment and Supplies

75.715 General Program Income

Part 75—Informal Grant Appeal Procedures

Part 76—Debarment and Suspension from Eligibility for Financial Assistance

Subpart F—Drug Free Workplace Requirements

Part 80—Non-discrimination

Under Programs Receiving Federal Assistance through the Department of Health and Human Services
Effectuation of Title VI of the Civil Rights Act of 1964

Part 81—Practice and Procedures for Hearings Under Part 80 of this Title

Part 83—Non-discrimination on the basis of sex in the admission of individuals to training programs

Part 84—Non-discrimination on the Basis of Handicap in Programs

Part 91—Non-discrimination on the Basis of Age in Health and Human Services Programs or Activities Receiving Federal Financial Assistance

Part 92—Uniform Administrative Requirements for Grants and Cooperative Agreements to States and Local Governments (*Federal Register*, March 11, 1988)

Part 93—New Restrictions on Lobbying

Part 100—Intergovernmental Review of Department of Health and Human Services Programs and Activities

Attachment I

Checklist for Use in Submitting OCS Grant Applications (Optional)

The application should contain:

1. A completed, signed SF-424, "Application for Federal Assistance". The letter code for the priority area (T&TA)

should be in the lower right-hand corner of the page;

2. A completed "Budget Information-Non-Construction" (SF-424A);

3. A signed "Assurances-Non-Construction" (SF-424A);

4. A Project Narrative beginning with a Table of Contents that describes the project in the following order:

- (a) Need for Assistance
- (b) Work Program
- (c) Significant and Beneficial Impact
- (d) Ability of Applicant to Perform
- (e) Staffing and Resources

5. Appendices including proof of non-profit status, Single Points of Contact comments (where applicable), resumes;

6. A signed copy of "Certification Regarding Anti-Lobbying Activities";

7. A completed "Disclosures of Lobbying Activities", if appropriate; and

8. A self-addressed mailing label which can be affixed to a postcard to acknowledge receipt of application.

The application should not exceed a total of 30 pages. It should include one original and four identical copies, printed on white 8½ by 11 inch paper, and be presented in a ring binder.

The applicant must be aware that in signing and submitting the application for this award, it is certifying that it will comply with the Federal requirements concerning the drug-free workplace and debarment regulations set forth in Attachments D and E.

[FR Doc. 92-9455 Filed 4-22-92; 8:45 am]

BILLING CODE 4130-01-M

federal register

**Thursday
April 23, 1992**

Part VII

Department of Defense

48 CFR Parts 201 et al.

**Acquisition Regulations; Miscellaneous
Amendments; Interim and Final Rules**

DEPARTMENT OF DEFENSE

48 CFR Parts 201, 203, 204, 206, 209, 215, 217, 222, 223, 225, 235, 237, 239, 245, and 252

[Defense Acquisition Circular (DAC) 91-2]

Department of Defense Acquisition Regulations; Miscellaneous Amendments

AGENCY: Department of Defense (DoD).

ACTION: Interim rules with requests for comments; and final rules.

SUMMARY: Defense Acquisition Circular (DAC) 91-2 amends the Defense FAR Supplement (DFARS) to revise or add language on contracting officer qualifications; contractor whistleblower protection; Government personnel work product; noncompetitive awards to universities; period of debarment; evaluation of acquisitions for services; hazardous waste; valves and machine tools; carbonyl iron powders; air circuit breakers; carbon, alloy, and armor steel plate; payment reductions for fraud; R&D contract periods; fixed price R&D contracts; Federally Funded Research and Development Centers; equipment maintenance funding; major automated information systems; multiyear contracts; contracts for studies, analyses, or consultant services; employment under construction or service contracts in Hawaii or Alaska; restrictions on acquisition of food, clothing, fabrics, specialty metals, and anchor and mooring chain.

DATES: Effective Date: April 16, 1992, except for subpart 223.70 and section 252.223-7005 (Item VII) which were effective February 3, 1992.

Comment Date: Comments on interim rules, sections 204.402, 204.404-70, and 252.204-7003 (Item III, Government Personnel Work Product); subpart 223.70 and section 252.223-7005 (Item VII, Hazardous Waste Liability and Indemnification); sections 225.7004, 252.225-7016, and 252.225-7017 (Item VIII, Valves and Machine Tools); sections 225.7014 and 252.225-7023 (Item IX, Carbonyl Iron Powders); sections 225.7017 and 252.225-7030 (Item XI, Carbon, Alloy, and Armor Steel Plate); and subpart 239.75 (Item XVII, Major Automated Information Systems) should be submitted to the address below by May 26, 1992 to be considered in formulating the final rules.

ADDRESSES: Interested parties should submit written comments to: Defense Acquisition Regulations System, ATTN: Charles Lloyd (Items III and XVII); Michele Peterson (Item VII); Alyce Sullivan (Items VIII, IX, and XI),

OUSD(A), Room 3D139, Pentagon, Washington, DC 20301-3000. Please cite DAR Case 91-313 (Item III); DAR Case 91-324 (Item VII); DAR Case 91-320 (Item VIII); DAR Case 91-321 (Item IX); DAR Case 91-352 (Item XI); and DAR Case 91-338 (Item XVII) in any correspondence on these rules.

FOR FURTHER INFORMATION CONTACT: Ms. Lucile Hughes, Defense Acquisition Regulations System, OUSD(A), Room 3D139, Pentagon, Washington, DC 20301-3000, telephone (703) 697-7266.

SUPPLEMENTARY INFORMATION:

A. Determination to Issue Interim Rules

A determination has been made under authority of the Secretary of Defense to issue the rules in Items III, VII, VIII, IX, XI, and XVII of DAC 91-2 as interim rules. Compelling reasons exist to promulgate these rules without prior opportunity for public comment. However, pursuant to Public Law 98-577 and FAR 1.501, public comments received in response to these interim rules will be considered in formulating the final rules.

B. Background

The Defense FAR Supplement is codified in chapter 2 of title 48 of the Code of Federal Regulations.

The December 31, 1991 revision of the CFR is the most recent edition of that title.

The interim rule included in DAC 91-2 (Item XII, Payment Reductions for Fraud, was previously published (57 FR 3358) in the Federal Register for public comment. Its publication in DAC 91-2 does not constitute a request for comment.

C. Regulatory Flexibility Act

DAC 91-2 Items, I, IV, V, XIII, XIV, XV, XVI, XVII

The Regulatory Flexibility Act does not apply because these rules are not significant revisions within the meaning of Public Law 98-577. However, comments from small entities concerning the affected Defense FAR Supplement subparts will be considered in accordance with section 610 of the Act. Such comments must be submitted separately. Please cite DFARS Case 92-610 in correspondence.

DAC 91-2, Items II and X

DoD certifies that these final rules will not have a significant economic impact upon a substantial number of small entities within the meaning of the Regulatory Flexibility Act because Item II merely prohibits contractor discrimination against employees who disclose information and Item X requires

domestic manufacture of air circuit breakers and thus should have a favorable effect on small entities.

DAC 91-2, Item VI

The Regulatory Flexibility Act applies. A final regulatory flexibility analysis is available from the address in this notice.

DAC 91-2, Items III, VII, VIII, IX, XI, XII, XVII

These interim rules are not expected to have a significant economic impact upon a substantial number of small entities because—

Item III—imposes no new procedures or requirements on contractors;

Item VII—most businesses performing hazardous waste treatment or disposal services are required to carry liability insurance to comply with state and local ordinances;

Items VIII, IX, XI—impose restrictions on acquisition of foreign products;

Item XII—imposes no new procedures or requirements on contractors; and

Item XVII—few major automated system contracts would be awarded to small entities.

D. Paperwork Reduction Act

DAC 91-2, Items I, II, III, IV, V, VIII, IX, X, XI, XII, XIII, XIV, XV, XVI, XVII, XVIII

The Paperwork Reduction Act does not apply because these rules do not contain information collection requirements which require the approval of OMB under 44 U.S.C. 3501 et. seq.

DAC 91-2, Item VI

The Paperwork Reduction Act applies. OMB has approved the information collection requirements under control number 0704-0331.

DAC 91-2, Item VII

The Paperwork Reduction Act applies. A request for clearance is being processed to OMB for approval.

List of Subjects in 48 CFR Parts 201, 203, 204, 206, 209, 215, 217, 222, 223, 225, 235, 237, 239, 245, and 252

Government procurement.

Nancy L. Ladd,

Colonel, USAF, Director-Defense Acquisition Regulations Council.

[Defense Acquisition Circular No. 91-2, dated April 16, 1992.]

All Defense FAR Supplement and other directive material contained in this circular is effective April 16, 1992, unless otherwise specified in the Item summary.

Defense Acquisition Circular (DAC) 91-2 amends the Defense FAR

Supplement (DFARS). The amendments are summarized as follows:

Item I—Defense Acquisition Workforce Improvement Act

DFARS 201.603-2 is added as a result of the Defense Acquisition Workforce Improvement Act to address qualification requirements for contracting officers. Individuals selected for appointment as DoD contracting officers on or after October 1, 1993, will have to meet specific qualification requirements in terms of training, experience, and education.

Item II—Contractor Whistleblower Protection

DFARS Subpart 203.71 and the clause at 252.203-7003 are added to amend and finalize the interim rule issued by Departmental Letter 91-010 on May 10, 1991. These DFARS revisions implement 10 U.S.C. 2409a, and prohibit defense contractors from discharging or otherwise discriminating against any contractor employee who discloses information to the Government that the employee reasonably believes evidences a violation of law or regulation.

Item III—Government Personnel Work Product

DFARS 204.402 is revised and a clause is added at 252.204-7003 as a result of Section 808 of the Fiscal Year 1992 Defense Authorization Act to preclude contractors from requiring that DoD employees or military personnel release their work products to the contractor.

Item IV—Noncompetitive Awards to Universities

DFARS 206.302-5(c) is amended, as a result of Section 401 of the Fiscal Year 1992 DoD Appropriations Act, to relax the limitation on use of the authorized or required by statute exception to full and open competition for research and development or construction awards to colleges or universities.

Item V—Period of Debarment

DFARS 209.406-4, Period of Debarment, is deleted, and 209.406-1 is revised as a result of implementation of Section 8110 of the Fiscal Year 1992 DoD Appropriations Act (Public Law 102-172).

Item VI—Evaluation of Acquisitions for Services and Uncompensated Overtime

Minor revisions have been made in DFARS 215.605, 237.170-2, 237.170-3, and the clause at 252.237-7019 to finalize the interim rule published as Item V of DAC 91-1.

Item VII—Hazardous Waste Liability and Indemnification

DFARS Subpart 223.70 and the clause at 252.223-7005 are added as an interim rule to implement Section 331 of the Fiscal Year 1992 Defense Authorization Act. Section 331 requires that contractors and subcontractors performing hazardous waste treatment or disposal services for DoD reimburse and indemnify the Government for any damages caused by the contractor or subcontractor's negligence or breach of contract. This requirement is effective for DoD contracts awarded on or after February 3, 1992.

Item VIII—Valves and Machine Tools

DFARS 225.7004 is revised and the clauses at 252.225-7016 and 252.225-7017 are revised and combined into one clause as a result of Section 834 of the Fiscal Year 1992 Defense Authorization Act. Section 834 clarifies the restriction on acquisition of certain machine tools and powered and non-powered valves and extends the restriction through Fiscal Year 1996.

Item IX—Carbonyl Iron Powders

This revises the interim rule in DFARS 225.7014 and the clause at 252.225-7023 to implement Section 835 of the Fiscal Year 1992 Defense Authorization Act. Section 835 revises the prior restriction on acquisition of carbonyl iron powders by deleting the requirement for 50 percent of the manufacturing entity to be owned or controlled by U.S. or Canadian citizens. The revisions also provide for delegation of waiver authority and limit application of the restriction to contracts awarded before January 1, 1993.

Item X—Air Circuit Breakers

This finalizes without change the interim rule published as Item XI in DAC 91-1, which added DFARS 225.7016 and the clause at 252.225-7029.

Item XI—Carbon, Alloy, and Armor Steel Plate

DFARS 225.7017 and the clause at 252.225-7030 are added to reflect the restrictions on acquisition of carbon, alloy, and armor steel plate, imposed by section 8111 of the Fiscal Year 1992 DoD Appropriations Act.

Item XII—Payment Reductions for Fraud

This interim rule was issued by Departmental Letter 92-001, dated January 15, 1992, and was effective that date. It implements section 836 of the Fiscal Year 1991 Defense Authorization Act (Pub. L. 101-510), as amended, which adds a subsection (e) to 10 U.S.C.

2307. The statute permits agencies to reduce or suspend payments to a contractor when the agency head determines that the contractor's request for payment is based on fraud. This rule provides a clause prescription at 232.111-70, establishes agency procedures at a new section 232.173, and establishes a new clause 252.232-7006, Reduction or Suspension of Contract Payments Upon Finding of Fraud.

Item XIII—Research and Development Contract Performance Periods

DFARS 235.002 is revised, in accordance with section 803, of the Fiscal Year 1992 Defense Authorization Act (Pub. L. 102-190), to allow performance periods of contracts for research and development to exceed 10 years, provided notification is submitted to Congress.

Item XIV—Fixed Price Research and Development Contracts

DFARS 235.006(b) is amended to apply the requirement for a determination by the Under Secretary of Defense for Acquisition to fixed-price research and development contracts over \$10 million that use Fiscal Year 1992 funds.

Item XV—Federally Funded Research and Development Centers

DFARS 235.017(a)(2) is added to implement section 8107 of the Fiscal Year 1992 DoD Appropriations Act (Pub. L. 102-172) by limiting obligation and expenditure of Fiscal Year 1992 funds for Federally Funded Research and Development Centers (FFRDC) if a member of the Board of Directors or Trustees simultaneously serves on the Board of a profit-making company under contract to DoD unless the FFRDC has a DoD-approved conflict of interest policy.

Item XVI—Equipment Maintenance Funding

DFARS 237.106 is revised to add equipment operation and maintenance to the categories of service contracts funded by annual appropriations that are authorized to extend beyond the end of the fiscal year.

Item XVII—Major Automated Information Systems

DFARS Subpart 239.75 is added as a result of Section 8028 of the Fiscal Year 1992 DoD Appropriations Act. Section 8028 prohibits use of Fiscal Year 1992 funds for acquisition of major automated information systems, unless the systems have successfully completed oversight reviews.

Item XVIII—Editorial Revisions

(a) DFARS references in 206.302-1(a), to the statutory citation for restrictions on contracting for studies, analyses, or consultant services, have been revised to reflect the continuance of the restriction.

(b) DFARS 217.103-1 is amended to update the statutory references for the criteria and limitations on use of multiyear contracts.

(c) DFARS 222.7000 is amended to update the statutory reference for the restrictions on employment under construction or service contracts performed in Alaska or Hawaii.

(d) DFARS references to the statutory citations for restrictions imposed by DoD appropriations acts have been revised for food, clothing, fabrics, and speciality metals (225.7002-1) and anchor and mooring chain (225.7012-1 and 225.7012-4(a)(1)).

Interim Rules Adopted as Final Without Changes**PARTS 225 AND 252—[AMENDED]**

1. Accordingly, the interim rules published as Item XI of DAC 91-1 at 56 FR 67208 on December 30, 1991, are adopted as final rules without change.

Amendments to Defense FAR Supplement

Therefore, the Defense FAR Supplement is amended as set forth below.

2. The authority for 48 CFR parts 201, 203, 204, 206, 209, 215, 217, 222, 223, 225, 235, 237, 239, 245, and 252 continues to read as follows:

Authority: 5 U.S.C. 301, 10 U.S.C. 2202, and FAR subpart 1.3.

PART 201—FEDERAL ACQUISITION REGULATIONS SYSTEM

3. Section 201.603-2 is added to read as follows:

201.603-2 Selection.

(1) Pursuant to 10 U.S.C. 1724, beginning October 1, 1993, in order to qualify to serve as a contracting officer with authority to award or administer contracts for amounts above the small purchase threshold in FAR 13.000, a person must—

(i) Have completed all mandatory contracting courses required for a contracting officer at the grade level, or in the position within the grade of the General Schedule in which the person is serving;

(ii) Have at least two years experience in a contracting position; and

(iii) Have—

(A) Received a baccalaureate degree from an accredited educational institution;

(B) Completed at least 24 semester credit hours, or equivalent, of study from an accredited institution of higher education in any of the following disciplines: accounting, business finance, law, contracts, purchasing, economics, industrial management, marketing, quantitative methods, and organization and management; or

(C) Passed an examination considered to demonstrate skills, knowledge, or abilities comparable to that of an individual who has completed at least 24 semester credit hours, or equivalent, of study from an accredited institution of higher education in any of the disciplines in paragraph (1)(iii)(B) of this subsection; and

(iv) Meet such additional requirements, based on the dollar value and complexity of the contracts awarded or administered in the position as may be established by the Secretary of Defense.

(2) The requirements in 201.603-2(1) do not apply—

(i) To any employee who, as of October 1, 1991, had at least 10 years experience in acquisition positions, in comparable positions in other government agencies or the private sector, or in similar positions in which the individual obtained experience directly relevant to the field of contracting; or

(ii) To any employee for purposes of qualifying to serve in the position in which the employee is serving on October 1, 1993, or any other position in the same grade and involving the same level of responsibilities as the position in which the employee is serving on that date.

PART 203—IMPROPER BUSINESS PRACTICES AND PERSONAL CONFLICTS OF INTEREST

4. A new subpart 203.71 is added to read as follows:

Subpart 203.71—Contractor Employee Communications With Government Officials**Sec.**

- 203.7100 Scope.
- 203.7101 Applicability.
- 203.7102 Policy.
- 203.7103 Prohibited conduct.
- 203.7104 Procedures for filing complaints.
- 203.7105 Procedures for investigating complaints.
- 203.7106 Procedures for adjudicating complaints.
- 203.7107 Procedures for review and enforcement of orders.
- 203.7108 Contract clause.

Subpart 203.71—Contractor Employee Communications With Government Officials**203.7100 Scope.**

This subpart implements 10 U.S.C. 2409a, which expires November 5, 1994.

203.7101 Applicability.

This subpart applies to all contracts exceeding \$500,000 except contracts for commercial items sold in substantial quantities to the general public where the price is based solely on established catalog or market price (see FAR 15.804-3(c)).

203.7102 Policy.

Defense contractors shall not discriminate against or discharge an employee for disclosing information to an appropriate Government official which information the employee reasonably believes evidences violations of Federal procurement laws and regulations.

203.7103 Prohibited conduct.

Pursuant to 10 U.S.C. 2409a, defense contractors shall not discharge or otherwise discriminate against any employee with respect to the employee's compensation or terms and conditions of employment because the employee (or any person acting pursuant to a request of the employee) discloses to an appropriate Government official information concerning a defense contract which the employee reasonably believes evidences a violation of any Federal law or regulation relating to defense procurement or the subject matter of the contract.

203.7104 Procedures for filing complaints.

Any employee of a defense contractor who believes that he or she has been discharged or otherwise discriminated against by the contractor in violation of 10 U.S.C. 2409a for disclosing information to a Government official may file a complaint alleging the discharge or discrimination with the Director, Defense Logistics Agency.

(a) Complaints should be addressed to the Director, DLA, ATTN: DLA-G, Cameron Station, Alexandria, VA 22304-6100.

(b) Complaints shall be filed not more than 180 days after the date on which the violation is alleged to have occurred or the date on which the violation was discovered, whichever is later.

(c) The complaint shall contain—

- (1) The name of the contractor;
- (2) The contract number, if known; if not a description reasonably sufficient to identify the contractor(s) involved;
- (3) Detailed information about the exhaustion of internal company

grievance procedures, if such exist, including the following, as appropriate—

(i) A summary of the outcome of the company procedures;

(ii) The reasons for believing that the company procedures would be ineffectual or would subject the employee to reprisals.

(4) A certification, signed by the complainant, which includes:

(i) The specific nature of the alleged discriminatory act;

(ii) The nature of the disclosure giving rise to the act; and

(iii) Whichever of the following statements is appropriate—

(A) All attempts at resolution through an internal company grievance procedure have been exhausted;

(B) The company grievance procedure was not used because the complainant reasonably believed it to be ineffectual, or that it would expose the complainant to employer reprisals; or

(C) The company has no grievance procedure.

203.7105 Procedures for investigating complaints.

(a) Upon receipt of a complaint properly filed under 203.7104, the Director, DLA shall—

(1) Notify the defense contractor named in the complaint and the point of contact for coordination of remedies for the contracting activity which entered into the contract.

(2) Refer the complaint to the DoD Inspector General for investigation.

(b) The Inspector General shall conduct an initial investigation to determine—

(1) Whether the complaint is frivolous or merits further investigation.

(2) Whether the complainant and the defense contractor have attempted to resolve the dispute.

(c) The Inspector General shall notify the Director if the Inspector General determines that the complaint is frivolous or for other reasons does not merit further investigation. Upon notification, the Director shall advise the complainant, the defense contractor, and the point of contact for coordination of remedies for the contracting activity that no further action on the complaint will be taken.

(d) If the Inspector General determines that the complaint merits further investigation, the Inspector General shall, except as provided in paragraph (e) of this section, conduct an investigation and provide a complete written report to the Director, setting forth the scope of the investigation and all evidence adduced relevant to the complaint, within 90 days after receiving the complaint.

(e) If the Inspector General determines that it is not possible to complete an investigation within the 90-day period prescribed in paragraph (d) of this section, the Inspector General shall notify the complainant and the Director of the reason(s) and of the date the investigation is expected to be completed. The Director may defer action on a complaint at any time with the consent of the complainant and the defense contractor.

(f) Upon receipt of the Inspector General report, the Director shall—

(1) Determine if additional investigation is necessary and if so request the Inspector General to continue the investigation.

(2) Provide, within 30 days after the Director determines an investigation to be complete a copy of the Inspector General's report, or a written report of the results of the investigation to—

(i) The complainant,

(ii) Any person acting on behalf of the complainant, and

(iii) The defense contractor alleged to have committed the violation.

203.7106 Procedures for adjudicating complaints.

(a) Not later than 90 days after providing a report of the results of an investigation of a complaint, the Director shall either—

(1) Issue an order providing the appropriate relief prescribed in paragraph (d) of this section;

(2) Issue an order denying the complaint; or

(3) Terminate proceedings on the basis of a settlement agreement entered into by the Director and the defense contractor alleged to have committed the violation.

(b) The Director may enter into a settlement agreement terminating proceedings on a complaint only with the participation and consent of the complainant.

(c) An order of the Director under this section shall be made on the record after notice and opportunity for a hearing. In issuing an order, the Director shall follow procedures that are as informal as practicable, consistent with principles of fundamental fairness. At a minimum, the Director shall afford the complainant and the contractor an opportunity to submit in writing information and argument in opposition to the conclusion of the report of the results of the investigation.

(d) If, in response to a complaint, the Director determines that a violation has occurred, the Director may issue, separately or in combination, any of the following—

(1) An order that the defense contractor that committed the violation take affirmative action to abate the violation.

(2) An order that the contractor reinstate the complainant to the position held when discharged, together with the compensation (including back pay), employment benefits, and other terms and conditions of the complainant's employment.

(3) At the request of the complainant, an assessment against the contractor, as determined by the Director, of a sum equal to the aggregate amount of all costs and expenses (including attorneys' fees and expert witnesses' fees) reasonably incurred by the complainant for, or in connection with, bringing the complaint on which the order was issued.

(e) Prior to issuing an order under this subsection, the Director shall provide the point of contact for coordination of remedies for the contracting activity an opportunity to comment on whether the proposed action will adversely impact any ongoing civil or criminal investigation.

(f) In determining whether a violation has occurred, the Director shall use the standard of proof that is used by the Merit Systems Protection Board in proceedings under 5 U.S.C. 1221, as described in 5 U.S.C. 1221(e) (1) and (2).

203.7107 Procedures for review and enforcement of orders.

(a) Any person adversely affected or aggrieved by an order issued under 203.7106(d)(2) may obtain review of the order's conformance with 10 U.S.C. 2409a in the United States court of appeals for the circuit in which the violation alleged in the order occurred. A petition seeking such review shall be filed not more than 60 days after the issuance of the Director's order. Review shall conform to chapter 7 of title 5, United States Code.

(b) Under 10 U.S.C. 2409a, an order of the Director with respect to which review could have been obtained under paragraph (a) of this section shall not be subject to judicial review in any criminal or other civil proceeding.

(c) Whenever a person has failed to comply with an order issued under 203.7106(d)(2), the Director shall file an action for enforcement of the order in the United States district court for the district in which the violation was found to have occurred. In any such action, the court may grant appropriate relief, including injunctive relief, and compensatory and exemplary damages.

(d) Any nondiscretionary duty imposed by this subpart is enforceable

in a mandamus proceeding brought under 28 U.S.C. 1361.

203.7108 Contract clause.

Use the clause at 252.203-7003, Prohibition Against Retaliatory Personnel Actions, in all solicitations and contracts exceeding \$500,000, except contracts for commercial items sold in substantial quantities to the general public where the price is based solely on established catalog or market prices (see FAR 15.804-3(c)).

PART 204—SAFEGUARDING CLASSIFIED INFORMATION WITHIN INDUSTRY

5. Section 204.402 is revised to read as follows:

204.402 General.

(1) Subpart 239.74 contains policy and procedures for securing telecommunications between Government agencies and contractors and subcontractors.

(2) Pursuant to section 808 of Pub. L. 102-190, DoD employees or members of the Armed Forces who are assigned to or visiting a contractor facility and are engaged in oversight of an acquisition program will retain control of their work product. Classified work products of DoD employees or members of the Armed Forces shall be handled in accordance with DoD 5220.22-M, Industrial Security Manual, and DoD 5220.22-R, Industrial Security Regulation. Contractor procedures for protecting against unauthorized disclosure of information shall not require DoD employees or members of the Armed Forces to relinquish control of their work products, whether classified or not, to a contractor.

6. Section 204.404-70 is revised to read as follows:

204.404-70 Additional contract clauses.

(a) Use the clause at 252.204-7000, Disclosure of Information, in solicitations and contracts when the contractor will have access to or generate unclassified information that may be sensitive and inappropriate for release to the public.

(b) Use the clause at 252.204-7003, Control of Government Personnel Work Product, in all solicitations and contracts.

PART 206—COMPETITION REQUIREMENTS

7. Section 206.302-1 is amended by revising paragraph (a)(2)(i) introductory text to read as follows:

206.302-1 Only one responsible source and no other supplies or services will satisfy agency requirements.

(a) Authority.

(2)(i) Section 8059 of Pub. L. 101-511 and section 8052 of Pub. L. 101-172 prohibit departments and agencies from entering into contracts for studies, analyses, or consulting services (see FAR subpart 37.2) on the basis of an unsolicited proposal without providing for full and open competition, unless—

(1) * * *

206.302-5 [Amended]

8. Section 206.302-5(c)(ii) is amended by adding a second sentence to read "The limitation does not apply to awards using funds appropriated in fiscal year 1992 (Pub. L. 102-172, Section 401)."

PART 209—CONTRACTOR QUALIFICATIONS

9. Section 209.406-1 is revised to read as follows:

209.406-1 General.

(a)(i) When the debarring official decides that debarment is not necessary, the official may require the contractor to enter into a written agreement which includes—

(A) A requirement for the contractor to establish, if not already established, and to maintain the standards of conduct and internal control systems prescribed by subpart 203.70; and

(B) Other requirements the debarring official considers appropriate.

(ii) Before the debarring official decides not to suspend or debar in the case of an indictment or conviction for a felony, the debarring official must determine that the contractor has addressed adequately the circumstances that gave rise to the misconduct, and that appropriate standards of ethics and integrity are in place and are working.

209.406-4 [Removed]

10. Section 209.406-4 is removed in its entirety.

PART 215—CONTRACTING BY NEGOTIATION

215.605 [Amended]

11. Section 215.605 is amended by revising paragraphs (c)(ii)(A)(1) and (c)(ii)(B)(2) the word "and" to read "or."

215.804-1 [Removed]

12-13. Section 215.804-1 is removed in its entirety.

PART 217—SPECIAL CONTRACTING METHODS

14. Section 217.103-1 is amended by revising paragraph (a)(iii); by revising paragraph (b)(ii)(A); by revising paragraph (b)(iv)(B), (C) and (D); by revising paragraph (b)(vi)(A)(1) and (B); and by revising paragraph (b)(vii) to read as follows:

217.103-1 General.

(a) * * *

(iii) The economic order quantity of the advance acquisition which precedes the multiyear acquisition is funded at least to the limits of the Government's liability (Section 9021, Pub. L. 101-165 and similar sections in subsequent appropriations acts).

(b) * * *

(ii) *Public Law 97-214 (10 U.S.C. 2829).*
(A) DoD may enter into multiyear contracts for supplies and services required for management, maintenance, and operation of military family housing and may pay the costs of such contracts for each year out of annual appropriations for that year.

(iii) * * *

(iv) * * *

(B) Multiyear contract that provides for economic order quantity purchases in excess of \$20 million in any year (Section 9021, Pub. L. 101-165 and similar sections in subsequent appropriations acts);

(C) Multiyear contract that includes an unfunded contingent liability in excess of \$20 million (Section 9021, Pub. L. 101-165 and similar sections in subsequent appropriations acts); or

(D) Contract for advance procurement leading to a multiyear contract with an economic order quantity procurement in excess of \$20 million in any year (Section 9021, Pub. L. 101-165 and similar sections in subsequent appropriations acts).

(v) * * *

(vi) * * *

(A) * * *

(1) Specifically provided for in a Defense appropriations act (Section 9021, Pub. L. 101-165 and similar sections in subsequent appropriations acts); and

(2) * * *

(B) Without using present value analysis to determine the lowest cost to the Government of a multiyear contract compared to annual contracts (Section 9021, Pub. L. 101-165 and similar sections in subsequent appropriations acts).

(vii) Do not terminate a multiyear contract under a program approved by Congress without providing a ten-day

advance notification to the Committees on Appropriations and Armed Services of the House of Representatives and the Senate (Section 9021, Pub. L. 101-165 and similar sections in subsequent appropriations acts).

PART 222—APPLICATION OF LABOR LAWS TO GOVERNMENT ACQUISITION

222.7000 [Amended]

15. Section 222.7000 is amended in paragraph (a) to remove the words and punctuation "Section 8067 of Public Law 101-511,".

PART 223—ENVIRONMENT, CONSERVATION, OCCUPATIONAL SAFETY, AND DRUG-FREE WORKPLACE

16. A new Subpart 223.70 is added to read as follows:

Sec.

Subpart 223.70—Hazardous Waste Disposal

223.7001 Definitions.

223.7002 Contract clause.

Subpart 223.70—Hazardous Waste Disposal

223.7001 Definitions.

As used in this subpart—

(a) *Remedial action* has the meaning given that term by section 101(24) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601(24)).

(b) *Corrective action* has the meaning given that term under section 3004(u) of the Solid Waste Disposal Act (42 U.S.C. 6924(u)).

223.7002. Contract clause.

(a) Use the clause at 252.223-7005, Hazardous Waste Liability and Indemnification, in all solicitations and contracts for the offsite treatment or disposal of hazardous waste from a facility under the jurisdiction of the Secretary of Defense—

(1) Entered into during fiscal year 1992;

(2) With an owner or operator of a hazardous waste treatment or disposal facility.

(b) Do not use the clause at 252.223-7005 in contracts—

(1) For performance of remedial action or corrective action under—

(i) The Defense Environmental Restoration Program;

(ii) Other programs or activities of the Department of Defense; or

(iii) Authorized State hazardous waste programs;

(2) Under which the generation of the hazardous waste to be disposed of is incidental to the performance of the contract; or

(3) For disposition of ammunition or solid rocket motors.

Use of the clause at 252.223-7005 may be waived if the Secretary of Defense or the Secretary of the military department concerned determines that—

(1) There is only one responsible offeror or there is no responsible offeror willing to provide the reimbursement required by paragraph (b) of the clause; or

(2) Failure to award the contract would place the facility concerned in violation of any requirement of the Solid Waste Disposal Act (42 U.S.C. 6901 *et seq.*).

PART 225—FOREIGN ACQUISITION

17. Section 225.7002-1(a) introductory text is revised to read as follows:

225.7002-1 Restrictions.

(a) In accordance with section 9009 of Public Law 101-185 and similar sections in subsequent Defense appropriations acts, do not acquire supplies consisting in whole or in part of any of the following, that have not been grown or produced in the United States or its possessions—

18. Section 225.7004 is revised to read as follows:

225.7004 Restriction on machine tools and powered and non-powered valves.

(a) 10 U.S.C. 2507(d) imposes restrictions, through fiscal year 1996, on the acquisition of certain classes of machine tools, and on powered and non-powered valves not manufactured in the U.S. or Canada.

(b) The fiscal year 1987-1989 appropriations acts imposed restrictions on the acquisition of certain classes of machine tools which differ from the provisions of this section. Acquisitions of machine tools using fiscal year 1987-1989 funds must comply with the requirements of this section and the fiscal year 1987-1989 appropriations acts.

19. Section 225.7004-1 is amended by removing the number "1" shown next to the three classifications "3405", "3438", and "3445"; by removing the number "1" and explanatory statement directly shown below the chart; by redesignating paragraph (b) as paragraph (c) and by adding a new paragraph (b) to read as follows:

225.7004-1 Applicability.

(a) * * *

(b) Machine tool accessories classified under FSC 3460 or 3461 are not components under 225.7004-4. Where a solicitation for machine tools includes machine tool accessories, list machine tool accessories separately. Each machine tool and each accessory must meet the requirements of this section individually.

20. Section 225.7004-2 is amended by revising the section heading, paragraph (a), and paragraph (b)(2)(i); and by adding paragraph (b)(3) to read as follows:

225.7004-2 Restrictions.

(a) Do not purchase, either directly as end items or indirectly on behalf of the Government, the machine tools or powered and non-powered valves in 225.7004-1 unless they are of U.S. or Canadian origin, or unless an exception in paragraph (b) of this subsection applies.

(b)(2) * * *

(i) The restriction would cause unreasonable delays.

(3) The restriction in paragraph (a) of this subsection is waived when it would cause unreasonable costs. The cost of a machine tool or valve of U.S. or Canadian origin is unreasonable where it is not the low evaluated offer when evaluated under 225.7004-3.

21. Section 225.7004-3 is revised to read as follows:

225.7004-3 Evaluating offers.

Unless the restriction is waived under 225.7004-2(a) or (b), evaluate offers by adding 50 percent of the offered price, inclusive of duty, to offers of machine tools or valves which are not of U.S. or Canadian origin.

22. Section 225.7004-5 is revised to read as follows:

225.7004-5 Contract clauses.

(a) Unless a waiver has been granted, use the clause at 252.225-7017, Preference for United States and Canadian Valves and Machine Tools, in all solicitations and contracts for valves and machine tools. When the restrictions of the fiscal year 1987-1989 appropriations acts apply, delete paragraph (c) of the clause and use a clause substantially the same.

(b) Consider using the clause at 252.225-7001, Buy American Act and Balance of Payments Program, and, if applicable, the clause at 252.225-7007, Trade Agreements Act, whenever an exception or waiver is anticipated. Where these clauses are used, state in the solicitation that offers which do not

conform to the restrictions of the more restrictive clause will only be considered if an exception applies or a waiver is granted.

23. Section 225.7012-1(a) introductory text is revised to read as follows:

225.7012-1 Restriction for fiscal year 1991 and after.

(a) Under Public Law 101-511, section 8041, and similar sections in subsequent Defense appropriations acts, DoD appropriations may not be used to acquire welded shipboard anchor and mooring chain, four inches in diameter and under, unless—

24. Section 225.7012-4 is amended by revising paragraph (a)(1) to read as follows:

225.7012-4 Contract clauses.

(a) * * *

(1) Using fiscal year 1991 or later funds; and

25. Sections 225.7014-1, 225.7014-2, and 225.7014-3 are revised to read as follows:

225.7014-1 Restriction.

In accordance with 10 U.S.C. 2507(e), all carbonyl iron powders contained in supplies acquired by DoD shall be manufactured in a facility located in the United States or Canada.

225.7014-2 Waiver.

The restriction may be waived by the Secretaries of the military departments or the directors of defense agencies if its application is determined not to be in the national interest. The service secretaries may delegate this authority to civilian officers appointed by the President by and with the advice and consent of the Senate. This authority shall not be redelegated.

225.7014.3 Clause.

Unless a waiver has been granted in accordance with 225.7014-2, use the clause at 252.225-7023, Restriction on Acquisition of Carbonyl Iron Powders, in all contracts awarded before January 1, 1993, and in all solicitations for such contracts, which anticipate the acquisition of supplies that contain carbonyl iron powders.

26. Sections 225.7017, 225.7017-1, 225.7017-2, 225.7017-3, and 225.7017-4 are added to read as follows:

225.7017 Restriction on carbon, alloy, and armor steel plate.

225.7017-1 Restriction.

In accordance with Section 8111 of Pub. L. 102-172, all carbon, alloy, and armor steel plate in Federal stock class

9515 or described by American Society for Testing Materials (ASTM) or American Iron and Steel Institute (AISI) specifications, purchased by the Government or a contractor for use in a Government-owned facility or in a facility controlled (e.g., leased) by DoD, shall be melted and rolled in the United States or Canada.

225.7017-2 Exceptions.

This restriction does not apply to—

(a) Contracts in effect as of November 26, 1991;

(b) Direct purchases by DoD using other than fiscal year 1992 funds; or

(c) Purchases by contractors unless the prime contract uses fiscal year 1992 funds.

225.7017-3 Waiver.

The restriction may be waived by the Secretary of the department responsible for acquisition, on a case-by-case, by certifying to the House and Senate Committees on Appropriations that—

(a) Adequate U.S. or Canadian supplies are not available to meet DoD requirements on a timely basis; and

(b) The acquisition must be made in order to acquire capability for national security purposes.

225.7017-4 Contract clause.

Unless an exception under 225.7017-2 is known to apply or a waiver has been granted in accordance with 225.7017-3, use the clause at 252.225-7030, Restriction on Acquisition of Carbon, Alloy, and Armor Steel Plate, in all solicitations and contracts which—

(a) Require the furnishing of carbon, alloy, or armor steel plate which will be used in a facility owned by the Government or under the control of DoD; or

(b) Require contractors operating in a Government-owned facility or a facility under the control of DoD to purchase carbon, alloy, or steel plate.

PART 235—RESEARCH AND DEVELOPMENT CONTRACTING

27. Section 235.002 is revised to read as follows:

235.002 General.

Contracts for research and development may not be performed over a period exceeding ten years from the date of initial award, unless the department or agency notifies Congress (10 U.S.C. 2352).

(1) The head of the agency shall notify Congress whenever—

(i) It is expected, at the time of award, or as a result of a modification, that the period of performance will exceed ten years from the initial award date; or

(ii) Performance has extended beyond ten years from the initial award date and no notice has otherwise been provided to Congress.

(2) The notice shall—

(i) Identify the contract;

(ii) State the initial award date;

(iii) State the expected period of performance; and

(iv) Be submitted not later than 30 days after—

(A) The initial award date or date of modification, as applicable; or

(B) The date on which performance exceeds ten years if no prior notice was given.

28. Section 235.006 is amended by revising paragraph (b)(i)(C)(1)(iii) to read as follows:

235.006 Contracting methods and contract type.

(b)(i) * * *

(C) * * *

(1) * * *

(iii) The development of a major system (as defined in FAR 34.001) or subsystem thereof, if the contract is over \$25 million, or is over \$10 million and is funded with FY90 funds (Pub. L. 101-165, section 9048), FY91 funds (Pub. L. 101-511), or FY92 funds (Pub. L. 102-172, section 8037).

29. Section 235.017 is added to read as follows:

235.017 Federally Funded Research and Development Centers.

(a) Policy

(2) No DoD fiscal year 1992 funds may be obligated or expended to finance activities of a Federally Funded Research and Development Center (FFRDC) if a member of the FFRDC board of directors or trustees simultaneously serves on the board of directors or trustees of a profit-making company under contract to DoD, unless the FFRDC has a DoD-approved conflict of interest policy for its members (Pub. L. 102-172, section 8107).

PART 237—SERVICE CONTRACTING

30. Section 237.106(2) is revised to read as follows:

237.106 Funding and term of service contracts.

(1) * * *

(2) The following categories of service contracts, funded by annual appropriations, are authorized to extend beyond the end of the fiscal year—

(i) One year contracts for maintenance of tools, equipment, or facilities (see 10 U.S.C. 2410a(1));

(A) Tools generally are items found in supply groups 51 and 52, such as hand and power tools, gauges, measuring devices, etc.

(B) Examples of equipment or facilities maintenance services include—

- (1) Custodial or housekeeping services;
 - (2) Security or fire protection services;
 - (3) Refuse collection;
 - (4) Grounds or surfaced area maintenance;
 - (5) Heating systems operation and maintenance;
 - (6) Military family housing maintenance;
 - (7) Energy monitoring control systems maintenance and repair;
 - (8) Commissary refrigeration maintenance and repair;
 - (9) Medical facility real property maintenance management;
 - (10) Hospital aseptic maintenance management;
 - (11) Animal or pest control;
 - (12) Maintenance of flight simulators;
 - (13) Maintenance of computers and associated hardware; and
 - (14) Maintenance of weapon systems;
- (ii) One year contracts for depot maintenance (see 10 U.S.C. 2410a(3));
- (iii) Multi-year service contracts;
- (iv) One year requirements or indefinite quantity contracts, as defined in FAR 16.503 and FAR 16.504, in which the minimum quantities are certain to be ordered in the fiscal year current at the beginning of the contract term (but see FAR 32.705-1(b));
- (v) Personal service contracts for experts or consultants or contracts for educational services, which cannot feasibly be subdivided for separate performance in each fiscal year; or
- (vi) One year contracts for operation of Government equipment (see 10 U.S.C. 2410a(4)).

237.170-2 [Amended]

31. Section 237.170-2(b) is amended in the first sentence by adding the words "direct charge" between the word "for" and the word "Fair."

237.170-3 [Amended]

32. Section 237.170-3 is amended by adding a "comma" between the word "more" and the word "for."

PART 239—ACQUISITION OF INFORMATION RESOURCES

33. A new subpart 239.75 is added to read as follows:

Sec.

Subpart 239.75—Appropriations Act Restrictions

239.7500 Scope of subpart.

239.7501 Major automated information systems.

239.7501-1 Definitions.

239.7501-2 Restriction.

Subpart 239.75—Appropriations Act Restrictions

239.7500 Scope of subpart.

This subpart contains restrictions on the acquisition of information resources, imposed by Defense appropriations acts.

239.7501 Major automated information systems.

239.7501-1 Definitions.

As used in this section—

(a) *Automated information system* means a combination of information, computer and telecommunications resources and other information technology, and personnel resources which collects, records, processes, stores, communicates, retrieves, and displays information.

(b) *Major automated information system*—

(1) Means a new automated information system, or modernization of an existing automated information system modernization that—

(i) Has anticipated program costs in excess of \$100 million during the period from the beginning of the need justification phase through the completion of the deployment phase for each automated information system site;

(ii) Has estimated program costs in excess of \$25 million in any single year; or

(iii) Is designated as being of special interest by the Office of the Secretary of Defense.

(2) Does not include automated information systems which are an integral part of a weapon or weapon system, test support for a weapon or weapon system, or information technology basic research and development.

239.7501-2 Restriction.

Section 8028 of the FY 1992 Defense Appropriations Act (Pub. L. 102-172) prohibits use of fiscal year 1992 DoD appropriations for acquisition of major automated information systems, unless the systems have successfully completed oversight reviews required by DoD regulations.

PART 245—GOVERNMENT PROPERTY

34. Section 245.302-7 is added to read as follows:

245.302-7 Optional property-related clauses for facilities contracts.

Use the clause at 252.225-7030, Restriction on Acquisition of Carbon, Alloy, and Armor Steel Plate, as prescribed in 225.7017-4.

PART 252—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

35. Section 252.203-7003 is added to read as follows:

252.203-7003 Prohibition against retaliatory personnel actions.

As prescribed in 203.7108, use the following clause:

Prohibition Against Retaliatory Personnel Actions (Apr 1992)

(a) *Definitions.* As used in this clause—

(1) *Appropriate Government official* means

(i) An officer or employee of the Department of Defense responsible for command, direct staff assistance to a commander, contract administration, program management, audit, inspection, investigation, or enforcement of any law or regulation relating to Government procurement or the subject matter of the contract;

(ii) A Member of Congress or an officer or employee of Congress, the General Accounting Office, the Congressional Budget Office, or the Office of Technology Assessment; and

(iii) Any other officer or employee of the United States whose duties include the investigation or enforcement of any law, rule, or regulation relating to Government procurement or the subject matter of the contract.

(2) "Information concerning a contract" means information about cost, price, compliance with specifications, meeting the user's requirements, user safety, use or disposition of services, real property or personal property acquired under the contract, the procurement process (including competition, negotiation, award, and administration), and relationships with Government personnel, competitors, or subcontractors.

(b) *Prohibition.* In accordance with 10 U.S.C. 2409a, the Contractor shall not discharge or otherwise discriminate against any employee with respect to the employee's compensation or terms and conditions of employment because the employee (or any person acting pursuant to a request of the employee) discloses to an appropriate Government official information concerning a defense contract, which information the employee reasonably believes evidences a violation of any Federal law or regulation relating to defense procurement or the subject matter of this contract.

(c) The Government will notify the Contractor upon receipt of any complaint filed under the provisions of this clause and subpart 203.71 of the Defense FAR Supplement. The Contractor agrees to cooperate with the Government during its investigation of any such complaint.

(d) The Contractor shall inform all employees of—

- (1) The prohibitions of this clause;
- (2) Employees' rights under 10 U.S.C. 2409a; and
- (3) Availability of procedures implementing the statute.

(End of clause)

252.204-7000 [Amended]

36. Section 252.204-7000 is amended by revising in the prescription statement the reference "204.404-70" to read "204.404-70(a)."

37. Section 252.204-7003 is added to read as follows:

252.204-7003 Control of government personnel work product.

As prescribed in 204.404-70(b), use the following clause:

Control of Government Personnel Work Product (Apr 1992)

The Contractor's procedures for protecting against unauthorized disclosure of information shall not require Department of Defense employees or members of the Armed Forces to relinquish control of their work products, whether classified or not, to the contractor.

(End of clause)

38. A new section 252.223-7005 is added to read as follows:

252.223-7005 Hazardous Waste Liability and Indemnification.

As prescribed in 223.7002, use the following clause:

Hazardous Waste Liability and Indemnification (Apr 1992)

(a) *Definitions.* As used in this clause—

(1) *Hazardous waste* has the meaning given that term by section 1004(5) of the Solid Waste Disposal Act (42 U.S.C. 6903(5)), except that such term also includes polychlorinated biphenyls (PCB).

(2) *Polychlorinated biphenyls (PCB)* has the meaning given that term under section 6(e) of the Toxic Substances Control Act (15 U.S.C. 2605(e)).

(b) Upon receipt of hazardous waste, the Contractor agrees that it shall reimburse the Government for any penalties assessed against, all liabilities incurred by, costs incurred by, and damages suffered by, the Government that are caused by—

(1) The Contractor's breach of any terms of the contract; and

(2) Any negligent or willful act or omission of the Contractor or employees of the Contractor, in the performance of the contract.

(c) Not later than 30 days after the award date of the contract, the Contractor shall demonstrate the ability to reimburse the Government as provided in paragraph (b) of this clause, by providing evidence to the Contracting Officer that—

(1) The facility has liability insurance meeting the requirements of 40 CFR 264.147; or

(2) The facility meets the financial assurance requirements of 40 CFR 264.147 for sudden and nonsudden accidental occurrences.

(d) The Contractor shall indemnify and hold the Government harmless from any and all liabilities, claims, penalties, forfeitures, suits and expenses incidental thereto, including costs of defense, which it may incur by reason of any act or omission as described in paragraph (b) of this clause.

(e) The Contractor shall include this clause, including this paragraph (e), in each subcontract under which the subcontractor receives hazardous waste from a defense facility.

(End of clause)

252.225-7016 [Removed and Reserved]

39. Section 252.225-7016 is removed and the section is marked "Reserved."

40. Section 252.225-7017 is revised to read as follows:

252.225-7017 Preference for United States and Canadian valves and machine tools.

As prescribed in 225.7004-5(a), use the following clause:

Preference for United States and Canadian Valves and Machine Tools (Apr 1992)

(a) For the purpose of this clause, a valve, machine tool, or machine tool accessory is considered to be of United States or Canadian origin if—

(1) It is manufactured in the United States or Canada; and

(2) The cost of its components manufactured in the United States or Canada exceeds 50 percent of the cost of all its components. The cost of components includes transportation costs to the place of incorporation into the end item and duty (whether or not a duty-free entry certificate may be issued).

(b) Unless otherwise specified in its offer, the Contractor agrees that valves used in piping for naval surface ships and submarines within Federal supply classifications 4810 (valves, powered) and 4820 (valves, non-powered), machine tools within the Federal supply classifications for metalworking machinery numbered 3405, 3408, 3410 through 3419, 3426, 3433, 3438, 3441 through 3443, 3445, 3446, 3448 and 3449, and machine tool accessories numbered 3460 and 3461 delivered as end items or purchased indirectly on behalf of the Government under this contract shall be of United States or Canadian origin.

(c) Unless a waiver is granted under 225.7004-2(b)(2) of the Defense Federal Acquisition Regulation Supplement, preference will be given to valves and machine tools of United States or Canadian origin by adding 50 percent to the offered price of all other valves and machine tools for evaluation purposes.

(End of clause)

41. Section 252.225-7023 is amended to revise the clause date to read "(APR 1992)" in lieu of "(DEC 1991)"; and by

revising paragraph (b) to read as follows:

252.225-7023 Restriction on acquisition of carbonyl iron powders.

(b) *Restriction.* The Contractor agrees that all carbonyl iron powders contained in supplies provided under this contract shall be manufactured in a facility located in the United States or Canada.

42. Section 252.225-7030 is added to read as follows:

252.225-7030 Restriction of acquisition of carbon, alloy, and armor steel plate.

As prescribed in 225.7017-4, use the following clause:

Restriction on Acquisition of Carbon, Alloy, and Armor Steel Plate (Apr 1992)

The Contractor agrees that all carbon, alloy, and armor steel plate in Federal supply class 9515, or described by American Society for Testing Materials (ASTM) or American Iron and Steel Institute (AISI) specifications, furnished under this contract for use in a Government-owned facility or facility under the control of the Department of Defense shall be melted and rolled in the United States or Canada.

(End of clause)

43. Section 252.237-7019 is amended by revising paragraph (a)(1) and paragraph (b) to read as follows:

252.237-7019 Identification of uncompensated overtime.

(a) * * *

(1) "Uncompensated overtime" means the hours worked in excess of an average of 40 hours per week by direct charge employees who are exempt from the Fair Labor Standards Act (FLSA), without additional compensation. Compensated personal absences, such as holidays, vacations, and sick leave, shall be included in the normal work week for purposes of computing uncompensated overtime hours.

(b) For any hours proposed against which an uncompensated overtime rate is applied, the Offeror shall identify in its proposal the hours in excess of an average of 40 hours per week, at the same level of detail as compensated hours, and the uncompensated overtime rate per hour, whether at the prime or subcontract level. This includes uncompensated overtime hours that are in indirect cost pools for personnel whose regular hours are normally charged direct.

[FR Doc. 92-8904 Filed 4-22-92; 8:45 am]

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federal register

**Thursday
April 23, 1992**

Part VIII

Department of the Interior

Bureau of Indian Affairs

**Continuation of Interim Procedural
Guidelines for the Operation and
Maintenance of the Wind River Irrigation
Project (Project) for the 1992 Irrigation
Season; Notice**

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Continuation of Interim Procedural Guidelines for the Operation and Maintenance of the Wind River Irrigation Project (Project) for the 1992 Irrigation Season

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice.

SUMMARY: This notice is issued pursuant to the CFR, chapter 25, part 171, under the authority delegated to the Area Director, by the Assistant Secretary of Indian Affairs and the Deputy Assistant Secretary of the Interior (Department Manual, chapter 3, part 230 (3.1 & 3.2)).

Pursuant to this authority as well as the duty of the Bureau of Indian Affairs (BIA) to manage the Project's irrigation water in fairness to all irrigators (25 U.S.C. 381), the following operational procedures will be used to direct daily operations of the BIA's Wind River Project for the 1992 Irrigation Season. These operational procedures were published in FR Vol. 56, No. 114 (June 13, 1991) as the Procedural Guidelines for the Operation and Maintenance of the Wind River Irrigation Project for the 1991 Irrigation Season, and they remain the full force and effect into the 1992 Irrigation Season beginning April 1, 1992.

DATES: These Procedural Guidelines become effective for the 1992 Irrigation Season not later than May 26, 1992. They will remain in effect while comments received for the initial publication of these procedures continue to be reviewed and evaluated.

ADDRESSES: This notice will be published and posted at the following locations:

U.S. Post Offices

Riverton, Wyoming 82501.
Lander, Wyoming 82520.

Newspapers

Riverton Ranger, Riverton, Wyoming 82501.
Wyoming State Journal, Lander, Wyoming 82520.

Office Buildings

Bureau of Indian Affairs, Wind River Agency, Fort Washakie, WY 82514.

FOR FURTHER INFORMATION CONTACT: Mr. David Allison, Superintendent, Wind River Agency, Fort Washakie, Wyoming 82514.

SUPPLEMENTARY INFORMATION:

Continuation of the 1991 Operating Guidelines into 1992 is necessary for Project water users to make cropping and other agricultural decisions for protection of their individual economic interests during the 1992 irrigation season, and will promote the economic security of the community and region by providing continuity of service within established and predictable rules.

Wind River Irrigation Project Water Delivery Procedures

1. Under normal conditions water will be delivered at a base rate of 2 cubic feet per second (cfs) per 70 acres to Project lands with a decreed 1868 "reserved" water right, and 1 cfs per 70 acres to all other project lands.

2. Under drought conditions, all lands with a decreed 1868 "reserved water" right will be delivered water first at a base rate of 2 cfs per 70 acres. Any additional available water will be divided evenly among junior water users, unless voluntary rotation is requested, at a base rate of 1 cfs per 70 acres. For this purpose, drought will be determined on a unit by unit basis and is defined as water shortage which prevents water delivery to Project lands with a decreed 1868 "reserved" water right at a base rate of 2 cfs per 70 acres and to all other Project lands at a base rate of 1 cfs per 70 acres in any Project unit.

3. When water is available in any Project unit above the amount sufficient to fulfill water user needs under normal conditions, water will be delivered to Project lands without a decreed 1868 "reserved" water right to the extent that such lands are delivered water up to a base rate of 2 cfs per 70 acres. Water available after all water demands have been met at a base rate of 2 cfs per 70 acres will be deemed surplus water and will be apportioned pro rata among all water users in a Project unit.

4. In all cases, beneficial use is the limit and measure of water delivery to Project lands.

5. Drought, Normal and Surplus conditions will be determined under authority of the Officer in Charge of the

Project in accordance with all applicable laws and regulations.

6. "Walton Right" claimants will receive water for their Project lands on a priority basis during drought conditions as all other Project lands having a decreed 1868 "reserved" water right, but only after such claimants have their Project lands decreed as being entitled to such priority by the District Court of the State of Wyoming.

7. The service or farm ditches into which water is delivered from Project laterals must have ample capacity and be maintained by the water user in proper condition to receive water and convey it to the place of use with a minimum of loss. Water delivery will be refused to such ditches not satisfactorily maintained.

8. All fences, installations, or any other infringements on or across Project rights-of-way shall be approved by the Officer in Charge of the Project. In no event, however, shall any fence, installation or infringement interfere with the flow of water, passage of Project employees or equipment, or any other right and entitlement to the full use of the right-of-way by the Project.

9. Any person who without authority, interferes with the flow of water, opens or closes a headgate, changes a water control structure, cuts a ditch bank to divert water, or places an obstruction in such facilities to change the flow of water, as described in 25 CFR 171.6(b), shall be subject to a civil penalty not to exceed five hundred dollars (\$500.00) and shall be subject to prosecution for criminal violations pursuant to title 18 of the U.S.C. The possession or use of water, lawfully denied by the Officer in Charge of the Project, is prima facie evidence of guilt.

Alleged violations will be investigated by irrigation personnel and law enforcement officials of the Wind River Agency. If such investigation substantiates that a violation has occurred, the violator will be charged in the court of proper jurisdiction or appropriate administrative action will be taken.

Dated: April 15, 1992.

David Pennington,
Acting Area Director.

[FR Doc. 92-9501 Filed 4-22-92; 8:45 am]

BILLING CODE 4310-02-M

federal register

**Thursday
April 23, 1992**

Part IX

Department of the Interior

Bureau of Indian Affairs

Indian Gaming; Notice

DEPARTMENT OF THE INTERIOR**Indian Gaming**

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice of Approved Tribal-State Compact.

SUMMARY: Pursuant to 25 U.S.C. 2710 of the Indian Gaming Regulatory Act of 1988 (Pub. L. 100-497), the Secretary of the Interior shall publish, in the *Federal Register*, notice of approved Tribal-State

Compacts for the purpose of engaging in Class III (casino) gambling on Indian reservations. The Assistant Secretary—Indian Affairs, Department of the Interior, through his delegated authority has approved the Tribal-State Gaming Compact of 1992 between the Stockbridge-Munsee Community and the State of Wisconsin executed on February 13, 1992.

DATES: This action is effective April 23, 1992.

ADDRESSES: Office of Tribal Services, Bureau of Indian Affairs, Department of the Interior, MS/MIB 4603, 1849 C Street, NW., Washington, DC 20240.

FOR FURTHER INFORMATION CONTACT: Joyce Grisham, Bureau of Indian Affairs, Washington, DC 20240, (202) 208-7445.

Dated: April 15, 1992.

David J. Matheson,
Acting Assistant Secretary, Indian Affairs.
[FR Doc. 92-9504 Filed 4-22-92; 8:45 am]
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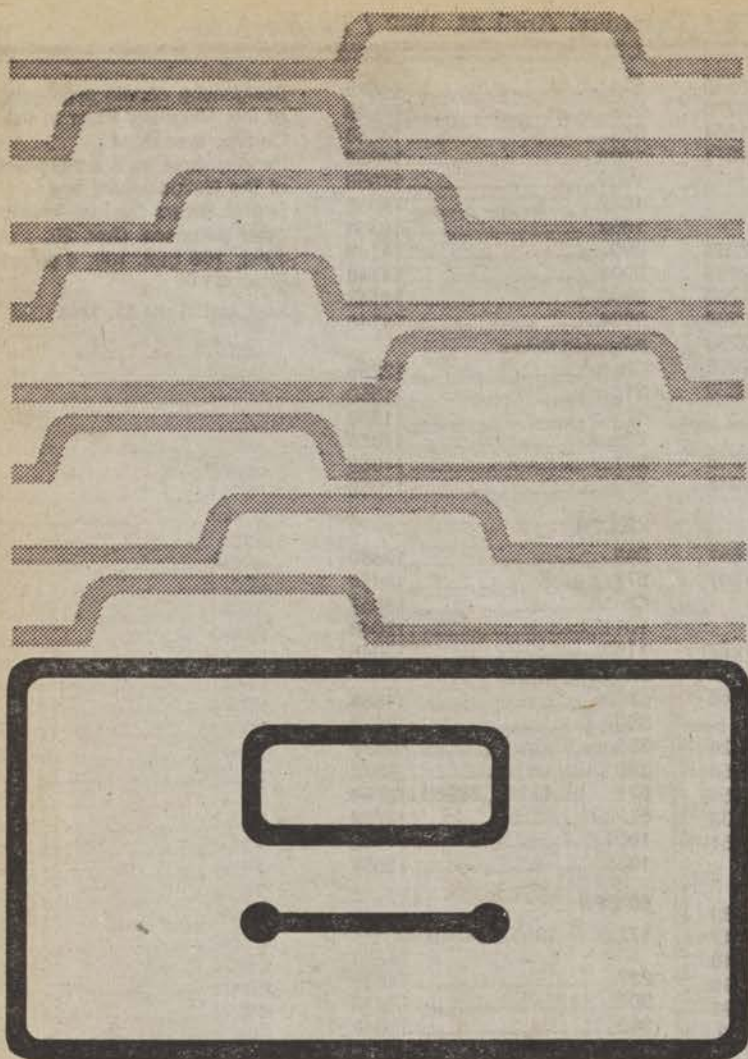
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S. 606/P.L. 102-271

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